

CHARACTERISTICS AND INFLUENCE
OF THE AUSTRALIAN CONSERVATION MOVEMENT:
AN EXAMINATION OF SELECTED CONSERVATION CONTROVERSIES

by
Bruce W Davis

B. Ec.(Hons), Dip. P. Admin., Dip. Str. Eng., M.I.E. Aust.

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DECLARATION

This thesis contains no material which has been submitted for the award of any degree or diploma in any university or college and to the best of my knowledge and belief the thesis contains no copy or paraphrase of material previously written or published by another person except where due acknowledgement is made in the text of the thesis.

BW Davis

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ABSTRACT

This thesis is a study of selected aspects of Australian environmentalism during the period 1960-1980. By analysing a number of case-studies of environmental conflict, the aim is to discover some characteristics of the Australian conservation movement and to determine what influence, if any, eco-activists have exerted on the reform of resource management practices of public authorities and private corporations. Environmentalism is here defined as a social and political movement involving specific sets of beliefs about the relationship of man and Nature, generally antipathetical to existing modes of technology and natural resources utilisation.

The opening three chapters of the thesis are devoted to an examination of various types of environmentalism and their outward manifestation as political action by voluntary conservation groups. It is argued that community environmental organisations face a number of internal stresses arising from variations in values and ideology, the loose affiliation of members, reliance upon voluntary effort, diverse organisational structures and leadership styles, as well as lack of financial resources. Yet high motivation, cadres of dedicated activists and unorthodox tactics, create strong survival capacity. In order to achieve political influence through lobbying, persuasion, bargaining and coercion, such groups must penetrate key decision processes, yet conform to the norms of the socio-political culture, or else achieve a weight of public opinion favourable to their cause.

Publications within the field of Australian political science tend to characterise eco-activism as a form of middle-class, selfish and unrealistic interest group activity. In practice, considerable altruism and expertise exists within the Australian conservation movement, with more than one thousand groups of widely differing scale and outlook, dispersed throughout the nation. At least five different functional categories of organisation may be identified. In this sense, the Australian conservation movement possesses more complex characteristics than the literature currently suggests.

During the past two decades, Australian environmental groups have adopted four primary strategies in their attempts to defend the nation's vanishing wilderness:

- (a) they seek to have narrowly specialised forms of project evaluation methodology replaced by multi-objective planning, encompassing social and ecological variables as well as technical and economic considerations;
- (b) they lobby politicians and exert influence on government through media campaigns, aiming to have existing policies and statutes modified or revoked, in order to substitute more innovative resource management practices;
- (c) they attempt to strengthen environmental protection regulations and expand amenity rights in law; and
- (d) they employ intergovernmental relations as a form of leverage to provide checks and balances on resource development activities and practices.

Apart from instances of political expediency and excessive secrecy in Australian government, conservationists encounter a number of difficulties in challenging the legitimacy and technical judgments of bureaucrats; they are not always able to mount sustained and integrated lobbying campaigns; nor have they yet achieved *locus standi* in the Australian courts. They have also been slow to recognise the value of intergovernmental relations as a means of bringing pressure to bear within government. In general, many institutional and operational obstacles exist to limit the influence of eco-activists on resource management practices. Despite such difficulties, some successes have been achieved within the last decade and conservation groups continue to play a useful role within the democratic political system, as watchdogs of the nation's scenic heritage.

CHAPTER 1

INTRODUCTION : AIMS, SCOPE AND CONTENT OF THE THESIS

1.1 OBJECTIVES AND HYPOTHESES

This thesis is a study of selected aspects of Australian environmentalism during the period 1960-1980. By analysing a number of case-studies of environmental conflict, the aim is to discover some characteristics of the Australian conservation movement and to determine what influence, if any, environmentalists have exerted on the reform of natural resources management practices of public authorities and private corporations. Environmentalism is here defined as a social and political movement involving specific sets of beliefs about the relationship of man and Nature, generally opposed to existing modes of technology and natural resources utilisation.

This definition and its implications will be examined in more detail in Chapter 2, but in the interim it should be observed that environmentalism may be regarded as a 'quiet revolution', in that its advocates have gradually begun to challenge many of the basic tenets of western industrial capitalism, while themselves remaining substantially dependent upon the material benefits and institutions of that society. Environmentalism is non-revolutionary in the party-political sense, since it does not espouse the overthrow of government; rather it aims at institutional change and policy reform, through a belief that prevailing modes of natural resources exploitation must be radically amended, otherwise mankind's survival and wellbeing will be placed at risk. In this sense, environmentalism is a global social movement, transcending national boundaries or particular forms of government.

The outward manifestation of environmentalism is action at the political level by voluntary conservation groups seeking the amendment of current legislation, policies and practices relating to environmental quality and natural resources conservation and development. It is the prospect, or otherwise, of reform based on environmentalism which constitutes the primary focus of this thesis. The principal theme subjected to empirical investigation is structured upon two initial hypotheses:

- (a) it may be argued that the so-called 'nature conservation movement' in Australia is likely to possess more complex characteristics than much of the literature of political science currently suggests ¹; and
- (b) within the field of environmental conflict, prospects of achieving reform of resource management practices may be far less than environmentalists generally expect, given the constitutional and institutional provisions of Australian government and its processes of decision-making ².

In carrying out the above study, the intention is not to prove the conservationists 'right' or 'wrong' but rather to study their motivations and the consequences of their operations within the political arena. In the course of this analysis, it will be necessary to explain what is meant by 'lobbying' and 'influence', 'environmental policy', 'resource management practices' and associated terminology,

1 Research into the Australian conservation movement is somewhat limited in character and extent. (See Chapter 3 for discussion)

2 Demands for reform of government policies are common in most jurisdictions; the first need is to justify reform, then to demonstrate what kind of reform may be desirable. This is the test facing the Australian conservation movement.

as well as to consider the specific belief systems which underlie eco-activism and environmentalism. Such introductory matters are dealt with in Chapter 2.

Commentators such as O'Riordan, Caldwell and Smith have pointed out that although a great deal has been written and said in recent years about the social, political, economic and environmental problems associated with exploitation of the Earth's natural resources, much of the comment has been vague and rather general in character³. To some extent this is inevitable. The implications of possible resource scarcities, an energy crisis, nuclear proliferation and environmental pollution are so profound that all mankind has a stake in the outcome and may seek a voice in the debate; yet the issues are complex and not easily grasped by the layman, especially as futurity is involved, encompassing imprecise data, risks and probabilities⁴. Prospects of technological substitution remain uncertain, hence speculation, beliefs and values condition thinking. Trivialisation occurs through oversimplification by politicians and the media, so conclusions are based more upon scenarios, prognostications and broad generalisations than upon diligent research to discover underlying causes and fundamental solutions⁵.

On one plane, environmentalism is a broad philosophical exercise involving difficult ethical choices about the condition and future of

3 O'Riordan T., *Environmentalism*, Pion Limited, London, 1976; Caldwell L.K., *Man and his Environment: Policy and Administration*, Harper and Row, New York, 1975; Smith P.J., *Politics of Physical Resources*, Penguin Books, Harmondsworth, 1975.

4 Boulding K., *Ecodynamics*, Sage Publications, Beverley Hills, 1978.

5 Smith P.J., *op.cit.*, Chapter 1.

homo sapiens; at another level it involves harsh social and political realities, such as community conflict over the control and use of public lands or who benefits from resource development projects in Third World nations⁶. Smith contends that by contrast with this penchant for superficial overviews and hypothetical solutions, there is one aspect of natural resources management which really brings the matter home to people, yet remains relatively neglected as a field of study. This is the conflict which arises when particular communities or groups of individuals are threatened by a specific project in their locality or in an area they profess to cherish⁷. This micro-clash between 'needs' as determined by some institution of society and 'quality of life' as perceived by countervailing groups within the community, is the very essence of social and economic progress. It brings to the fore all the issues of collective choice, political action, perception and belief which citizens face; it thus provides a societal forum in which to learn much about the material world and ourselves.

Conflicts of this kind are far from new and it may be thought that academics and practitioners have long since dealt with the problem. This is far from the truth. There are many historical descriptive case-studies of environmental conflict, but apparently no comprehensive theory which fully explains the phenomenon⁸. Although eco-activism has been analysed in some degree, the field still lies relatively unexplored, particularly in Australia⁹. One thesis cannot canvass

6 Petrulla J., *American Environmentalism : Values, Tactics and Priorities*, Texas A and M University Press, College Station, 1981, Part III (Critical Issues).

7 Smith P.J., *op. cit.*, Preface.

8 This is a somewhat bold assertion, but one based upon the proposition that no author appears to have claimed to present a comprehensive theory of environmental conflict. Elements of such a theory may be gleaned from the literature (see discussion in Chapters 2 and 3).

9 Australian literature on environmentalism is analysed in Chapter 3.

the entire spectrum of issues about environmental politics; therefore this study of conservation controversies in Australia over the past two decades has the specific function of attempting to explain one facet of the situation: the attitudes and tactics of eco-activists, bureaucrats, politicians and private enterprise in face-to-face confrontation on environmental problems. Such an investigation inevitably involves consideration of institutions, processes and the values of participants, as well as the ultimate consequences of interaction.

There are a number of reasons why this topic merits attention:

- (a) commentators on the Australian conservation movement have made a number of generalised claims about the characteristics of environmentalism and the activities of voluntary conservation groups. Most of these assertions have never been subjected to empirical investigation or validation. It is desirable that such judgments should be tested;
- (b) the quality of life of all Australians is not only a function of resource utilisation, but also of affinity to landscape. We need to understand why and how conservation controversies arise and the manner in which the community should attempt to deal with such problems;
- (c) considerable amounts of scarce investment capital are expended on natural resources investigation, project evaluation and development of conservation programmes. More effective resource management policies and practices will benefit both the public and private sectors, hence we need to evaluate current modes of operation and to identify improved methodologies, organisation and practices;
- (d) resource management and project evaluation are largely the province of technical experts. It is sometimes claimed that technocrats arrogate to themselves judgments about the public interest and that environmental pressure groups perform the useful countervailing function of fostering democratic debate and participation. We need to determine whether these claims are correct and to study how public participation in decision-making might be rendered more effective.

A single study cannot provide a comprehensive response to these urgent and important areas of discussion. The thesis therefore has three limited objectives within its broader assessment of attempts at environmental reform:

- (a) to investigate details of the Australian conservation movement, especially the origins, aspirations, organisation and mode of operations of voluntary conservation groups;
- (b) to evaluate the strategies adopted by environmentalists, in order to determine what influence, if any, they have exerted upon environmental policy and resource management practices during the past two decades; and
- (c) to investigate whether particular circumstances apply in Australian government which limit or inhibit reforms of this kind.

It should be noted that the thesis omits the entire spectrum of urban environmental issues and concentrates upon wilderness conservation and development problems, i.e. proposals for energy projects, minerals and forestry production, the establishment or modification of national parks and various other aspects relating to scenic amenity. The justification for this orientation is that a considerable body of literature already exists on urban problems¹⁰ and although some attempt has been made to collate case-studies of resource management problems, little comparative analysis has yet been carried out, nor has the role of the Australian conservation movement been thoroughly investigated and documented by political scientists or administrative theorists.

1.2 STRUCTURE AND CONTENT OF THE THESIS

The thesis is divided into three principal sections. Chapters 2 and 3 are devoted to an examination of Australian environmentalism, relating this phenomenon to broader issues of perception about linkages

10 See, for example, Sandercock L., *Cities for Sale*, Melbourne University Press, Melbourne, 1975; Roddewig R. *Green Bans : The Birth of Australian Environmental Politics*, Allanheld Osman & Co., Montclair N.J., 1978; Russ P. and Tanner L., *The Politics of Pollution*, Visa Books, Melbourne, 1978.

between man and Nature, the motivations and beliefs of eco-activism of various kinds, and the organisation and operations of voluntary conservation groups, including relationships with international perspectives on nature conservation. An attempt is made to penetrate beyond the rhetoric and sets of beliefs involved and their outward manifestation as interest group pressures within the community, to discover why and how conservation controversies arise and who the protagonists really are, in Australian environmental debates.

The second section of the thesis (Chapters 4 to 7 inclusive) consists of a series of interrelated case-studies which explore the complexities of conservation conflict, including the interaction process and tactics involved, in an attempt to explain why existing provisions for conflict resolution may prove relatively ineffectual¹¹. The case-studies relate to energy policy and water resources development, forestry operations, amenity rights in law, and mineral sands extraction and export. It cannot be claimed that the case evidence is entirely definitive or utterly representative; the understandable tendency is to focus upon interesting events which highlight opposing ideologies, rather than record the many successful ventures and minor disagreements which generally characterise resource conservation and development. Nonetheless the spectacular controversies do reflect problem areas which need to be remedied and may help identify key issues and principal factors which must undergo analysis and resolution. Each of the cases examined here, illustrates a particular facet of environmental conflict and provides a survey of the strategies adopted by government agencies, corporate and political interests and conservation

11 Competing and complementary end-uses for natural resources generally necessitate identification of various options and implications of action. Diverse viewpoints are usually involved, hence conflict resolution mechanisms are required. Conservation controversies develop when such machinery proves ineffectual.

organisations when in confrontation. Normal non-controversial resource management practices are surveyed in passing.

The final Chapter of the thesis (Chapter 8) draws the detailed evidence together and provides an appraisal of Australian conservation group activity over the past two decades. The central aim is to discover whether the environmentalists have been able to influence resource management practices to any degree and to identify whether there are any institutional obstacles or other impediments to reform. The thesis concludes with some speculations about a theory of environmental conflict and suggests some aspects which might warrant further investigation and testing.

In presenting the above material, the methodological weakness of the case-study method must be explicitly recognised. All forms of social research have their own particular difficulties and the case-study approach is not unique in this regard¹². The traditional deficiency of case-study method is claimed to be its reliance upon historical-descriptive chronology and lack of consistency in scope, content and conceptual cohesiveness. These are valid criticisms, but they are offset by an equally significant argument ; that case-studies are conceptually simple yet capable of great elaboration; furthermore longitudinal analysis or factorial analysis may be superimposed¹³. Moreover it is difficult to understand how useful theories can be developed without considerable recording and interpretation of empirical evidence. Provided the researcher explicitly recognises his ideological

12 Bock E.A., *Essays on the Case-Study Method in Public Administration*, Inter-University Case Program, University of Indiana Press, Ind., 1962. Jahoda M., Deutsch M., Cook S., *Research Methods in Social Relations*, Holt, Rhinehart and Winston, New York, 1969.

13 Isaac S., *Handbook in Research and Evaluation*, Edits Publishers, San Diego, Calif. 1975.

biases and value stances and openly states all assumptions and interpretations, counter-argument is feasible by critics and the strengths and limitations should become apparent to the reader¹⁴. Every endeavour has been made to ensure that the current study meets this criterion.

1.3 INFORMATION SOURCES

The primary sources of information have been official reports and documents, personal interviews with individuals engaged in environmental conflict and the scrutiny of administrative files and correspondence of a variety of institutions, including voluntary conservation organisations. It did not prove feasible to consult all the voluntary groups throughout Australia, because of the large number involved. In addition not all were willing to grant access to an external observer, although the majority were most helpful in providing information and comment whenever contacted. Sufficient material was scrutinised to ensure some comparability between organisations and to record the aims, structure and procedures over time. This material was supplemented by correspondence with politicians, public servants, executives and individual environmentalists, as well as by interviews with protagonists and observers involved in the many conservation struggles. Media coverage, despite its occasional superficiality and unevenness, was used to assimilate the atmosphere at the time of particular events and to avoid some of the worst dangers of the wisdom of hindsight. In summary, a variety of sources of information and methods of investigation were employed to gain insights into the problem area.

14 Subramaniam V., 'The Fact-Value Distinction as an Analytical Tool', *Indian Journal of Public Administration*, Vol. XVIII, January-March 1971, pp. 1-7.

1.4 LIMITATIONS OF THE STUDY

The principal difficulty encountered with the study is its interdisciplinary nature. Environmental politics inevitably embraces elements of political science, administrative studies, sociology, psychology, economics, engineering, law, anthropology and the natural sciences¹⁵. In such circumstances it may be difficult to satisfy a reader who may rightly claim that his or her particular interest has received scant attention relative to other aspects. The only feasible defence is to invite the critics to present their own views, while recognising the existing study as merely one of a number of possible perspectives.

Given the penchant for secrecy within Australian government, it was sometimes difficult to verify specific allegations or the interpretation of past events. Few public authorities are willing to open their files to an academic researcher when the subject matter has been widely debated in the media and public criticism has been directed at the organisation. Yet environmental politics inevitably results in leaked documents, eye witness accounts, personal viewpoints or informal networks of information, the sources of which cannot always be acknowledged, but which nevertheless provide a valuable confirmation of formal statements or else assist explication. The author of this thesis owes a debt of gratitude to many persons who cannot be named. The reader must therefore rely in part upon the author's judgment as to the accuracy of some interpretations of events. As far as possible, speculation has been labelled as such and clearly separated from the analysis of factual material.

15 Note the diversity of reference sources drawn from many disciplines, in publications such as those of O'Riordan, Petrulla, Caldwell, *op. cit.*

1.5 A CONCLUDING COMMENT

It may appear presumptuous to prejudge the situation, but in carrying out research for this assignment, it became obvious that many Australians seem unaware of the diminution of their natural heritage and the rapid changes occurring within it. There is a need to learn much more about the characteristics of environmental conflict, and who is deciding what, on whose behalf, and for what purpose. It is hoped that this contribution to the debate will persuade others that the subject warrants further examination. Democracy will survive only if the community is vigilant about its mode of operation through the governmental system and constantly strives to improve its prospects within society. Resource management is a crucial factor in man's struggle for material existence and also has some influence on his spiritual welfare. The very complexity of the phenomenon is a powerful inducement to academic inquiry.

CHAPTER 2

ENVIRONMENTALISM AS BELIEF AND POLITICAL CAUSE

PART A : SOME DEFINITIONS AND CONCEPTUAL ISSUES2.1 INTRODUCTION

Concern about the natural environment is not a new phenomenon, but has taken on urgent and pervasive forms in recent years¹. Caldwell claims that although natural resources are finite, human aspirations are virtually limitless; in this truism lies the fundamental cause of environmental conflict and conservation controversies². Human material wants are not only highly diverse in character, but tending to expand as technological capabilities increase. Various individuals and interest groups have fundamentally different perspectives and priorities about material welfare, moreover attitudes and preferences change over time. Accordingly, the structure of needs within the community alters in accordance with social values, rising expectations, plus technological and economic feasibilities³.

By comparison, land and other natural resources are far more fixed in fundamental characteristics. Factors such as geographical location, climate, quality and quantity of resource endowment, and physical terrain cannot easily be amended by man⁴. As natural

1 Ward B. and Dubos R., *Only One Earth : The Care and Maintenance of a Small Planet*, Penguin Books, Harmondsworth, 1972; Erlich P., *The Population Bomb*, Ballantine Books, New York, 1968; Helfrich, H.W., (Ed.), *The Environmental Crisis*, Yale University Press, New Haven, 1970.

2 The claim that natural resources are finite relates to the Earth's biosphere and is subject to the exposition in Section 2.2 of this Chapter. See also Caldwell L.K., *Man and His Environment : Policy and Administration*, Harper and Row, New York, 1975.

3 Dasmann R., *Environmental Conservation*, Wiley and Sons, New York, 1968.

4 Davis P., *Land Use*, McGraw-Hill, New York, 1977; Burton I. and Kates R., (Eds.), *Readings in Resource Management and Conservation*, University of Chicago Press, Chicago, 1965.

resources constitute the primary source of wealth and power within the community, they are a form of social and political capital for which various interest groups will vie. It is understandable, therefore, why debates arise about resource allocation and ownership, and why governments sometimes have to intervene in the public interest to regulate resource usage, promote development or encourage conservation⁵.

Behind this facade of materialist ambition, however, lies a more subtle relationship between man and Nature which is not always explicitly recognised, but which is fundamental to the way homo sapiens acts in coping with his environment. It goes well beyond mere formal recognition of dependence upon natural resources for survival, to more aesthetic and ethical issues about man's role in the universe and to various forms of religious beliefs. In essence, the way in which we treat our environment depends greatly upon the way we perceive it and how we view the linkage between man and Nature. There is no absolute agreement between individuals as to how such matters stand, hence environmental management is always a matter of debate, in which cognition, personal values and experience, as well as collective opinion, conditions action⁶.

It is a central tenet of this thesis that belief rather than reality sometimes influences environmental conflict, i.e. that people sometimes act more upon assumptions and values than on available factual evidence. Altercations between protagonists are often protracted and discordant, precisely because the ideologies and beliefs of combatants differ markedly⁷. It seems necessary, therefore, to briefly define

5 Thompson D. (Ed.), *Politics, Policy and Natural Resources*, The Free Press, New York, 1972.

6 Tiselius A., and Nilsson S., *The Place of Values in a World of Facts*, Almquist and Wiksell, Stockholm, 1969.

7 Tribe, L.H., Schelling C., and Voss J., *When Values Conflict*, Ballinger Publishing Co., Cambridge, Mass., 1976.

and discuss perceptions of environment before outlining the manner in which environmental values, as well as beliefs about man's relationship with Nature, have led to environmentalism becoming a political cause.

2.2 ENVIRONMENTALISM : DEFINITION AND CLASSIFICATION

One of the major weaknesses of the literature on environmental conflict and conservation controversies is the failure to come to grips with a well-grounded definition of environmentalism⁸. In the absence of any agreed interpretation of this phrase, environmentalism was identified in Chapter 1 as :

'... a social and political movement, involving specific sets of beliefs about the relationship of man and Nature, generally opposed to existing modes of technology and natural resources utilisation.'

It is the latter aspect which is the focus of attention in this thesis; we are not so much concerned with the large proportion of the populace who profess some sympathy with the conservation of flora, fauna and scenery, but rather with those who express distaste for existing human impacts upon the biosphere and who feel sufficiently motivated to do something about the situation, by political action or by financial support of groups attempting to achieve change within the social and administrative milieu. This need not involve activism in a party-political sense, but it does necessitate willingness to be openly identified as workers for environmental reform. Throughout the remainder of the thesis, such individuals are variously identified as conservationists, eco-activists and environmentalists, the terms being used interchangeably despite the varying degrees of commitment, values and ideology of the persons concerned⁹.

8 Note that two of the more important texts on environmentalism, namely those of Petrulla and O'Riordan, *op. cit.* deal with environmental philosophy, ideology and design, without specifying clearly what 'environmentalism' really entails.

9 Attention is primarily focussed on nature conservation groups, but urban-orientated activists also play a role in promoting wilderness conservation at times.

Not all commentators would agree with the definition of 'environmentalism' given above; indeed there is some evidence of ambiguity about the term and its gradual change in meaning over time¹⁰. O'Riordan's seminal overview of environmentalism skirts precise definition, even though he demonstrates that a central thrust of recent resource management policy and practice has been to improve environmental safeguards and increase the area of national parks and nature reserves of various kinds¹¹. O'Riordan appears to regard environmentalism as largely anti-technological and anti-corporate, involving activists who express care and concern for the relationship between man and Nature; but he avoids outright specification, apart from comment on environmental philosophy and environmental design. He contrasts the perspective of individuals with a respect for Nature, relative to those who view resources solely as a tool for man's material wellbeing. These dichotomous orientations are termed 'ecocentric' and 'technocentric' modes; values, orientations and ideologies which are explained in more detail later in this Chapter¹².

Petrulla's examination of American environmentalism tackles the definitional problem in more detail¹³. Commencing with the identification and specification of some environmental values, Petrulla argues that the term 'environmentalism' has changed its meaning over time, as attitudes and beliefs have evolved within society; moreover perceptions about the environment are conditioned by complex factors including conservative and progressive traditions¹⁴. Petrulla argues that

10 Petrulla J., *op. cit.*, Preface.

11 O'Riordan T., *op. cit.*, Chapter 1, 4 and 5.

12 O'Riordan T., *op. cit.*, Chapter 1, pp. 3-14.

13 Petrulla J., *op. cit.*, Chapter 6.

14 Petrulla's 'conservative and progressive traditions' seems to accord with O'Riordan's 'pessimistic and optimistic perceptions' of the nature of man and prospects of achieving economic and social progress, without environmental destruction.

concern about land-use practices is not new; all civilisations face this problem, but react in different ways and with different perceptions of man's capacity to control his milieu. In the 1700s the orientation was geographical determinism (the impact of resource endowment on material wellbeing); in the 1800s scientific discovery created a feeling of awe towards natural phenomena ('biocentrism'); while the mid-twentieth century has seen a conjunction of ecological awareness (care for nature as human survival mechanism) and economic rationality (the 'wise' use of resources). Petrulla argues that the phrase 'environmentalism' should be viewed in terms of the latter two interpretations at present, but does not preclude the prospect of changed orientations over time. In this sense, 'environmentalism' may not only involve specific contextual definition, but some sub-classifications of typologies as well¹⁵.

Support appears to exist for Petrulla's contention that 'environmentalism' may take different forms in particular societies and cultures within various periods of time. Passmore, for example, has identified a number of evolving conceptions about man and Nature extant from ancient civilisations until the present time¹⁶; while Nash has explored various historical viewpoints about wilderness and the American mind¹⁷. Within Australia, Powell has recorded the views of early conservationists, in the form of resource managers anxious to preserve particular species deemed beautiful or utilitarian, but contrasts the clash of values between land developers out to tame a hostile natural environment and Australian poets and artists enchanted by fascinating landscapes and elysian sunlight¹⁸. Powell contends

15 The material contained in Chapters 2 and 3 illustrate the diversity of values and ideologies extant within the environmental movement. On this basis, sub-classifications of organisations and groups should prove feasible, thus 'environmentalism' could take diverse forms.

16 Passmore J., *Man's Responsibility for Nature*, Duckworth & Co. Ltd, London, 1974.

17 Nash R., *Wilderness and the American Mind*, Yale University Press, New Haven, 1967.

18 Powell J.M., *Environmental Management in Australia, 1788-1914*, Oxford University Press, Melbourne, 1976.

that attitudes about the environment are always complex, stemming from culture and personality, but influenced by social norms and political realities. He summarises his argument with a quotation from Burch:

' Nature is always composed within a specific framework of motives and expectations; the habitats of human societies are not solely the function of ecosystem characteristics. Each human group develops its special collection of motives which designate the appropriate and inappropriate forms of conduct in regard to other men, other groups, and the non-human environment, and these selective perceptions determine whether the non-human environment will become a resource, a taboo, or remain unseen.' ¹⁹

In this sense 'environmentalism' is a dynamic concept and none of the traditional disciplines may treat it adequately.

Powell claims that Australia has always possessed talented individuals within the field of environmental management and these people have tended to keep up-to-date and have been influenced by overseas trends. Yet such conservationists have had to operate in a society hostile to their views and orientated towards exploitative, expansionist attitudes²⁰. Powell argues persuasively that politicians and bureaucrats tend to oppose innovative ideas and that anti-intellectualism is a long-standing trait within the Australian community. Utilitarian conservation has tended to over-ride aesthetic modes of environmentalism, but the continuing innocent reliance on the expertise, anonymity and impartiality of government bureaucracies does not encourage the type of democratic involvement in

19 Burch W.R., *Daydreams and Nightmares : A Sociological Essay on the American Environment*, Harper & Row, New York, 1971, p. 5.

20 Powell is not alone in this claim. See Dempsey R. (Ed.), *The Problem of Finding Out : Environmental Problems in Australia*, Cheshire, Melbourne. 1974. For a more benign view of resource development see Blainey G., *The Rush That Never Ended*, Melbourne University Press, 1969.

environmental management wherein lies the best hope for human survival and wellbeing. In short, Powell is exceedingly pessimistic about prospects for environmentalism within the Australian culture²¹.

In the introduction to this thesis it was argued that environmentalism constitutes a quiet revolution in gradually challenging most of the fundamental tenets of western industrial capitalism, principally through political action by voluntary conservation groups seeking reform of current legislation, policies and practices concerning natural resources conservation and development. It was argued that a paradox existed in that many of those actively opposed to prevailing technology, modes of production or distribution within the economy, remain highly dependent upon societal material benefits for their standard of living. This is not a new phenomenon amongst agents of change, indeed virtually all tend to use the existing institutions and services of their culture as a springboard for catalytic activism, but nonetheless it does lead towards interesting reflections about tolerance of dissent or the suppression of minorities within political systems²².

Environmentalism appears to be an expanding global social movement, not only in terms of improved communication and co-operative effort between similarly-minded people in diverse nation states, but also because of an increased community tendency to view ecosystems and the biosphere in 'spaceship' earth terms, implying activism on principle, for causes involving international dimensions²³. The ramifications

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- 21 Equivalent views are expressed by other commentators. See Dempsey R. (Ed.), *op. cit.*; Marshall A.J., *The Great Extermination*, Heinemann, London, 1966; Dempsey R. and Power J., 'The Politics of Environment', in Rapaport A. (Ed.), *Australia as Human Setting*, Angus & Robertson, Sydney, 1972.
 - 22 Smith F.E., *The Politics of Conservation*, Pantheon Books (Random House) New York, 1966; Deutsch K., *Politics and Government: How People Decide their Fate*, Houghton Mifflin, Boston 1970.
 - 23 Camilleri J., 'Ecological Politics : The Birth of a New Movement', *World Review*, Vol. 17, No. 1, April 1978, pp. 45-59; Pilat J., *Ecological Politics : The Rise of the Green Movement*, Sage Publications, London, 1980.

extend further, embracing street demonstrations, occupancy of sites and social disobedience, as well as the gradual emergence of 'environmental' political parties and electoral candidates. Thus conservationists may be as much concerned about international issues, such as the extinction of species of whales or clearfelling of tropical rainforests, as about environmental pollution of a neighbourhood area, or the threat to a cherished landscape. What is less clear is how such macro-perspectives are to be accommodated within political and bureaucratic systems geared to narrowly specialised functions, plus considerable bureaucratic rigidity and expediency²⁴. The environmentalists may well be pursuing an ideal unattainable in practice, but the saving grace is that all governments have become accustomed through time to seeking as much accommodation to competing interests and demands, as circumstances allow. In this sense, environmentalism may promote some improvement in resource management policies and practices. The purpose of this thesis is to analyse whether any discernible change has occurred in Australia during the past two decades as a result of the influence of voluntary conservation groups.

2.3 ENVIRONMENTAL POLICY AND NATURAL RESOURCES MANAGEMENT

There is considerable confusion within the literature about concepts such as 'environmental policy' and 'natural resources management'²⁵. This is further compounded by associated terminology such as

24 Richardson J. and Jordan A., *Governing Under Pressure*, Martin Robertson, London, 1979; Thompson D. (Ed.), *Politics, Policy and Natural Resources*, *op. cit.*, pp. 283-298.

25 'Environmental policy' tends to be a catch-all phrase, whereas 'natural resources management' is taken to involve resource inventories, ecosystem maintenance, and conservation and development programmes. The ambiguity is that these activities involve policy as well, just as 'environmental policy' implies programme needs.

'resource conservation and development', 'land-use planning' and 'common-property resources' (e.g. public lands). In a purely conceptual sense, there may be fundamental differences between 'environmental policy' and 'natural resources management' but these subtleties are not always apparent to legislators, the media and the public, being the stock in trade and language of scientific and technological experts, as well as some public servants. Recognition of semantic differences in terminology, or alternatively lack of recognition, has important implications for goal-setting and decision-making within the public sector and in relations between government officials and private corporate interests²⁶. We need some precision in definition if we are to understand the implications of action, but even academic literature is not scrupulous in this regard and a broad range of terminology is used within the political arena, often without recognition that confusion may arise.

Following Conacher, we may argue that a resource is:

' a response to man's appraisal and perception of his environment in a want-satisfying capacity, satisfying individual, group and social objectives. It involves an appraisal as to whether the environment provides, supports and serves the supply of desirable goods or services, food, shelter and comfort. (Haggett, 1972).' ²⁷

The fundamental operational concept in this definition is that an object does not become a resource until it is used, i.e. 'resources' are essentially a cultural concept; a stock becomes a resource when it can be of some utility to man in meeting his needs. Haggett makes the point that this transformation can work in reverse, i.e. with changing

26 Problems of dialogue between specialists and generalists are discussed in Snow C.P., *The Two Cultures and a Second Look*, Mentor Books, New York, 1963 and Jacoby H., *The Bureaucratization of the World*, University of California Press, Berkeley, 1973.

27 Conacher A., 'Resources and Environmental Management: Some Fundamental Concepts and Definitions', *Search*, Vol.9, No. 12, December 1978, pp. 437-441.

technology a resource may lose its utility²⁸. Both stock and flow (usage) concepts are thus involved, as well as related notions such as relative scarcity and substitution. Measurement will clearly involve not only issues of quality and quantity but also questions of notional and actual monetary valuation²⁹. The term 'resource' may also be applied to human attributes such as numbers of individuals, intelligence, expertise and educational attainment.

The goal of natural resources management can now be seen to relate to the definition of 'resource'; that is, to satisfying man's utilitarian needs through the use of some object or group of objects. The idea of 'exploitation' is also closely linked to aspirations for material welfare, profit and efficiency. Thus Edwards and Tversky view resources management as a set of technical, economic and managerial practices by which stocks of physical objects are converted to usage in order to satisfy utilitarian needs under prevailing socio-economic and technological conditions³⁰. This is a rather narrow perspective since it ignores aesthetic values, time preference and the concept of conservation, but it is the dominant textbook view and explains why the personal values of resource 'managers' often lead them into environmental disputes and problems. 'Exploitation' is thus the basic theme of natural resources management, but there is a subsidiary associated recognition of the need, wherever feasible, for careful husbandry and attempts at sustained yield via regeneration or other means³¹.

28 Haggett P., *Geography : A Modern Synthesis*, Harper and Row, New York, 1970, pp. 180-181.

29 For discussion of resource concepts and classifications, see National Energy Advisory Committee, Report No. 2, *Australia's Energy Resources : An Assessment*, Department of National Development, Canberra, 1978.

30 Edwards W. and Tversky A., (Eds.), *Decision-Making*, Penguin Books, Harmondsworth, 1967; also Emery F. and Trist E., 'The Causal Texture of Organizational Environments', *Human Relations*, Vol. 18, 1965, pp. 21-32.

31 Hall G., 'The Myth and Reality of Multiple-Use Forestry' in Thompson D. (Ed.), *Politics, Policy and Natural Resources*, *op. cit.*, pp. 181-191.

The term 'environmental policy' is much more diffusely applied and rather difficult to specify. Conacher quotes Hall and Fagan's view of the environment of a resource system, as follows:

' the set of all objects whose behaviour is influenced by the behaviour of the resource system, and those objects whose behaviour influences the behaviour of the resource system.' 32

This conceptual definition is seemingly comprehensive, because it not only focusses on the total milieu, but also on the elements and links between them. However, complexity is involved and it is the attempt to be macro-comprehensive which often confuses the situation: one may pursue physical, biological, economic, social, cultural, political or administrative variables to the stage where cognition fails or so much interdependency occurs that analysis becomes virtually impossible. In this sense 'environment' can mean everything or nothing, especially if system dynamics are contemplated and measurement is attempted on a multitude of variables³³.

Conacher bravely attempts to grapple with definitional and assessment problems and concludes by describing environmental policy and management thus:

' Environmental management may be defined as those activities which enhance beneficial links and minimise adverse links amongst resource systems and their environments, and which seek to attain desirable environmental system states, in response to community perceptions and desires, under prevailing socio-economic and technological conditions.' 34

32 Hall A. and Fagan R., 'Definition of a System', *General Systems*, Vol. 1, 1956, pp. 18-28.

33 One author who handles such complexities capably is Boulding K., 'The Economics of the Coming Spaceship Earth', in Jarrett H. (Ed.), *Environmental Quality in a Growing Economy*, John Hopkins Press, Baltimore, 1966, pp. 3-14. Note also Metcalf W., *The Environmental Crisis: A Systems Approach*, University of Queensland Press, Brisbane, 1977.

34 Conacher A., *op. cit.* p. 439.

The essential point about this definition is that it focusses on manipulation of the environment for more than utilitarian ends, i.e. it involves conscious human assessment and action, weighing many factors not solely materialistic in motivation. Chapman and Jones extend this argument further by seeking to use the phrase 'environmental policy' in a generic sense, covering all aspects of government strategy relating to the biosphere and ecological issues, but with system viability and conservation practices in mind³⁵. This total perspective tends to focus on ends (objectives) as well as means, and perhaps inadvertently downgrades the phrase 'natural resources management' to operational problems of conservation and development, i.e. aspects of usage. Reasonable as the intellectual arguments of Conacher or Chapman and Jones may appear, they fly in the face of established history, precedent, literature and practice. In the past, the term natural resources management has been treated as the generic term, with environmental policy added on as a more recent appendage, concerned largely with regulatory practices to prevent pollution or environmental degradation³⁶.

Because of this confusion about terminology and the inability of disciplined scientists to impose their precise phraseology upon a largely uncaring and less knowledgeable public, a variety of wording will be employed in the thesis, both to add textual variety and to express the diversity of concerns within the community. Yet it is important to specify where the primary emphasis will rest. As noted in the introductory Chapter 1, this thesis is basically concerned with non-urban conservation issues, more particularly land-use planning and

35 Chapman R.J.K. and Jones R., 'Environmental Control or Environmental Protection : The Need for a Policy Ministry Designed to Promote the Environment Principle', *Search*, Vol. 4, No. 1-2, January-February 1973, pp. 29-34.

36 Note especially texts prior to 1960. See, for example, Hays S.P., *Conservation and the Gospel of Efficiency*, Harvard University Press, Cambridge, Mass., 1959.

resource management in near-wilderness areas, principally relating to proposed development activities such as water resource projects, mining and forestry operations, and the establishment or retention of national parks and nature reserves. Although these clashes of prospective resource usage constitute environmental policy and natural resources management, other phraseology such as 'resources utilisation', 'economic development', 'conservation practice' and 'environmental issues' will be employed on occasion, always in relation to specified contexts.

2.4 LOBBYING AND INFLUENCE

A considerable literature exists on lobbying and influence within political systems, involving consideration of such topics as political representation, the role and operation of interest groups, bureaucratic reaction to community pressures, access to decision-making and processes of public participation³⁷. In this discussion of power politics, there appears to be some confusion of terminology, especially with respect to 'lobbying'. The Concise Oxford Dictionary defines the latter phrase as '. . . . the frequenting of parliamentary lobbies to solicit votes'; it thus implies the notion of face-to-face contact between legislators and electors to discuss opposition or support for particular proposals or statutes³⁸. Within modern government, however, where it is widely recognised that a great deal of policy emanates from the bureaucracy and the executive, lobbying has taken on a wider meaning, embracing all forms of influence, direct and

37 Zeigler L. Harmon and Peak W., *Interest Groups in American Politics*, Prentice - Hall, Englewood Cliffs, N.J., 1972; Berry J., *Lobbying for the People*, Princeton University Press, Princeton, N.J., 1977; Scott R. (Ed.), *Interest Groups and Public Policy*, Macmillan Co. of Australia, Melbourne, 1980; Bachrach R., and Baratz M., *Power and Poverty : Theory and Practice*, Oxford University Press, London 1970.

38 Finer S.E., *Anonymous Empire*, Pall Mall, London, 1966; Pateman C., *Participation and Democratic Theory*, Cambridge University Press, Cambridge, 1976.

indirect, that are brought to bear to persuade governments towards particular legislation, policies and practices; a large ambit where 'lobbying' takes on ambiguous meanings and diverse ends³⁹.

One does not have to read far into the literature of political science and administrative theory to recognise that clearer specification is required, else distinctions between 'power' and 'influence', 'lobbying' and 'coercion' will become unduly obscured⁴⁰. Without canvassing the explicit meanings of such terminology in fine detail, it must be stated that this thesis is about attempts to persuade and influence public servants, as well as politicians, to modify existing environmental policy and resource management practices in favour of new values and objectives espoused by environmentalists, but in the face of countervailing pressures from other interest groups within the community. In this sense, the discussion is not limited to direct lobbying of parliamentarians only, but surveys a wide range of societal interaction and activism to shape decisions within the political arena. The word 'lobbying' is therefore reserved for direct contact between environmentalists and legislators, while other terminology will describe various forms of influence. This does not accord with all the literature, but it does obviate ambiguity. Environmentalism as a social movement and as interest group activity is discussed in finer detail in Section 2.12 of this Chapter⁴¹.

39 Deutsch K., *The Nerves of Government*, The Free Press, New York, 1966; Dror Y., *Public Policy Making Re-Examined*, Chandler Publishing, San Francisco, 1968; Hawker G., Smith R., and Weller P., *Politics and Policy in Australia*, University of Queensland Press, Brisbane, 1979.

40 For discussion of these terms, see Zeigler L.H., and Peak W., *Interest Groups in American Politics*, *op. cit.*

41 See also Rosenbaum W., *The Politics of Environmental Concern*, Praeger Publishers, New York, 1977.

PART B : ENVIRONMENTALISM AS A SYSTEM OF BELIEFS

2.5 ENVIRONMENTAL PERCEPTION

As earlier stated, human behaviour within the arena of environmental politics is a function of two key factors:

- (i) individual perceptions of the natural environment and reaction to such perceptions; and
- (ii) the norms and values of individuals and groups engaged in environmental discourse and conflict.

Cognition is described by O'Riordan as:

' the all-embracing process by which man attempts to separate himself from his environment, conceptualises it, and behaves within it, according to his own inner logic.' ⁴²

Man and Nature are not precisely the same, since man is a thinking, feeling and purpose-seeking organism to whom his surroundings are something 'apart'. Many individuals have attempted to analyse and explain the phenomenon, but it almost defies exposition, nevertheless an outline is essential.

Tuan, one of the foremost contributors, argues that man in his many cultural forms attempts to 'symbolise' natural phenomena, so as to cope with his universe and come to terms with it⁴³. Tuan views man as essentially egocentric (i.e. 'the world he organises is centred upon himself'), but also ethrocentric (i.e. 'worlds, whether of individuals or cultures, are made up of perceived elements in Nature or of external reality : they are distorted by human needs and desires, they are fantasies to introduce order to life situations that seem baffling or contradictory')⁴⁴. Tuan is echoing the conclusions

42 O'Riordan, *op. cit.*, p. 200.

43 Tuan Y.F., *Topophilia : A Study of Environmental Perception, Attitudes and Values*, Prentice-Hall, Englewood Cliffs, N.J., 1974.

44 Tuan Y.F., *Man and Nature*, Resource Paper 10, Association of American Geographers, Washington, D.C., 1971.

of other researchers such as Wright or Lowenthal who demonstrate that man, propelled by his yearnings, can imagine environments to be quite different from what they really are; and so attempts to mould recognition of them to his likes, either physically or psychologically⁴⁵. Individuals cherish an atmosphere congenial to their safety and comfort; people accordingly act out beliefs and their own image of the world; 'rationality' and 'reasonableness' become personal subjective judgments as to what is feasible and what should be done.

Tuan also notes the seemingly interrelated but nonetheless inchoate character of the physical world, where paradoxes and opposites abound; where ecological systems, evolutionary succession and the haphazard impact of events seem to go together; life and death, night and day, stability and decay, tranquility and crisis, are various characteristics which shape human behaviour and human design, as much as reaction to settings and circumstances⁴⁶. Why is man seemingly so eager to construct his surroundings with so much personal symbolism? Glacken has concluded from his exhaustive review of the attitudes of civilised man towards Nature, that three contradictory beliefs have dominated:

- (i) a recognition that to some extent man's actions are determined by his physical surroundings;
- (ii) a feeling that the earth was designed for man's use, but so as to increase his aesthetic and spiritual wellbeing as well as his social and economic welfare; and
- (iii) a knowledge that man is capable of causing ecological damage and frequently does so.

45 Wright T.K., 'Terrae Incognitae : The Place of Imagination in Geography', *Annals*, Association of American Geographers, Vol. 37, 1947, pp. 1-15; Lowenthal D., 'Geography, Experience and Imagination: Towards a Geographical Epistemology', *Annals*, Association of American Geographers, Vol. 51, 1961, pp. 241-260.

46 Tuan Y.F., *Topophilia : A Study of Environmental Perception, Attitudes and Values*, op. cit.

In this sense, civilisation may be regarded as the application of purposive order by which a pliable earth becomes moulded (utilised) to satisfy man's needs⁴⁷.

According to Leiss and others, such mastery over Nature, if not created by technology and artifacts of various kinds, then at least by conceptualisation and much symbolism, has always formed an essential core of environmental construing⁴⁸. The central problem is that individuals view the process in quite different ways. Tuan therefore concludes that the 'ideal' environment embodies the inextricable linkage of two fundamental but opposing attributes:

- (i) a desire for order, harmony, stability and purpose in the cosmos, as symbolised by man's various works; and
- (ii) the essential disorder, but nevertheless interrelated character of the biosphere, necessitating both use and nurture of Nature, symbolised by wilderness conservation on the one hand and capital-intensive forestry clear-felling on the other.

'Environmental construing', according to Tuan and others, is an endless search for an unattainable ideal, since in the struggle to achieve 'order' and control we threaten the very basis of our existence; the complex and fragile environment we always assume will be there⁴⁹.

Petrulla claims the paradox is that all cultures, regardless of their technology, exhibit some duality of thought towards Nature. Individuals praise the aesthetic beauty of spectacular scenery, yet accept urban sprawl and pollution, deforested landscapes and the destruction of flora and fauna, as well as condoning corporate greed and political intrigue

47 Glacken C.J., *Traces on the Rhodian Shore : Nature and Culture in Western Thought from Ancient Times to the End of the Eighteenth Century*, University of California Press, Berkeley, 1967.

48 Leiss W., *The Domination of Nature*, George Braziller, New York, 1972.

49 Tuan Y.F., *Topophilia : A Study of Environmental Perception, Attitudes and Values*, op. cit., p. 248.

as 'inevitable' concomitants of 'progress' and 'efficient' resource utilisation⁵⁰. Many cultures express a worship of land and an I-thou relationship with Nature, yet sometimes cause massive damage to eco-systems, perhaps inadvertently but often consciously, sufficient to cause the demise of many species and some civilisations⁵¹. All societies desire to control their own destinies, hence it is perhaps not mastery over Nature, but coping with Nature, which creates environmental pressures and damage. The uneasy compromise which constitutes our environmental 'ideal' reflects confusion as to what constitutes proper behaviour towards our natural surroundings and fellow human beings; most people do not want revolutionary change, but do seek justifications for their actions, even within such fields as natural resources management⁵².

2.6 THE EVOLUTION OF MODERN ENVIRONMENTALISM

Authors such as Erlich, Commoner, Caldwell and O'Riordan claim that attitudes concerning the natural world are markedly influenced by the degree of optimism or pessimism about man's capacity to manipulate his environment for economic (material) welfare, without inducing ecological failure⁵³. This in turn depends upon faith (or otherwise) in technology and the capacity to devise substitutes for scarce resources. The optimists are certain that technological innovation will diversify choice and remain firmly within the capacity of man, so that if problems arise they will be solved by scientific knowledge and appropriate production techniques. The pessimists fear that human intervention in

50 Petrulla J., *op. cit.*, pp. 9-11.

51 O'Riordan T., *op. cit.*, Chapters 2 and 8.

52 O'Riordan T., *op. cit.*, pp. 201-202, also Passmore J., *op. cit.*, pp. 28-40.

53 Erlich P., and Erlich A., *Population, Resources, Environment*, W.H. Freeman and Co., San Francisco, 1970; Commoner B., *The Closing Circle : Man, Nature and Technology*, Alfred Knopf, New York, 1972; Caldwell L.K., *Environment : Challenges to Modern Society*, Natural History Press, Anchor Books, New York, 1971; O'Riordan T., *Perspectives on Resources Management*, Pion Limited, London, 1971.

the biosphere will disrupt natural processes, lead to instability in both the social and ecological sense, and point to substantial empirical evidence about intractable problems which technology has created rather than solved. These sharp divergences of attitude explain the tensions existing between environmentalists, the scientific community, private enterprise, government and the technocrats who service resource exploitation.

O'Riordan quotes McConnell's assertion that the contradictions which beset modern environmentalism reflect the dichotomous evolution of two philosophical themes which arose at the very birth of the conservation movement, although their intellectual antecedents lie even deeper in history⁵⁴. O'Riordan refers to these contrasting viewpoints as the ecocentric mode and the technocentric mode; although he attempts to explain both, the presentation is not well balanced as he tends to favour the ecocentric viewpoint. McConnell has defined the latter as:

' resting upon the supposition of a natural order in which all things moved according to natural law; in which the most delicate and perfect balance was maintained up to the point where man entered with all his ignorance and presumption.' 55

Thereafter the 'web of life' was broken by a succession of 'disturbed harmonies' which may, unless controlled, ultimately lead to the destruction of man himself. The alternative viewpoint is the technocentric mode, characterised by Hays as the application of rational and 'value free' scientific and managerial techniques by a professional elite, who regard the natural environment as 'neutral stuff' which can be manipulated and used by man to profitably shape his destiny⁵⁶.

54 McConnell G., 'The Environmental Movement : Ambiguities and Meanings', *Natural Resources Journal*, Vol. 11, 1971, pp. 427-436.

55. McConnell G., *ibid*, p. 190.

56 Hays S.P., *Conservation and the Gospel of Efficiency*, *op. cit.*, p. 2.

O'Riordan claims that the two perspectives differ not just in their attitudes to the natural world, but also in the kind of underlying material motivations and moral attitudes which govern action. Ecocentrism is interpreted as preaching the virtues of reverence, humility and deep concern for man and Nature, it argues for frugality and low impact technology (but is not totally anti-technological), it decries bigness and impersonality in all forms, and demands a code of behaviour which seeks permanence and stability based upon ecological principles of diversity and homeostasis. Until recent decades, ecocentrism was a moral or spiritual crusade shunning the political arena, but today it is transformed into interest group action, challenging corporate and bureaucratic power and attempting to transform society⁵⁷.

The technocentric ideology, by way of contrast, derives from the nineteenth century industrial revolution assumption that scientific knowledge, the application of logical evaluation, specialist skills and the division of labour, and technological modes of production would not only transform material welfare, but would lead towards a more egalitarian society. Virtues of capitalism, such as market freedom, entrepreneurship, diligence and innovation, motivation and risk-taking are incorporated. Yet according to critics, technocratic ideology is almost arrogant in its assumption that man is supremely able to manipulate the natural world and understand and control events to suit his own purpose. Exponents respond that technology has brought immense welfare benefits to mankind and that science will overcome ecological crises as they occur. This assurance extends even to the

57 Petrulla J., *op. cit.*, Ch. 3, 4 and 5.

application of theories or models or explain, manipulate, or predict changes in human value systems and behaviour, while the exercise of science to 'manage' Nature is viewed as an essential attribute of mankind's march of progress⁵⁸.

O'Riordan states that ecocentrism is concerned primarily with 'purpose' and 'ends', while technocentrism focusses more on 'means' per se, particularly the use of scientific and managerial principles, since optimism about the continued improvement of the human condition permits it to gloss over the implications of any specific action or identified failure. O'Riordan's assessment is not vindicated by any quotation of evidence, although his views do concur with those of other analysts, but he correctly discerns that technocrats tend to be influential since they usually move in the same milieu as the politically and economically powerful, who are soothed by the unshakeable confidence of technocratic ideology and impressed by its presumption of knowledge⁵⁹.

In real life, the boundaries of ecocentrism and technocentrism are much more blurred than the above comments might suggest. There is every reason to believe that adherents of both philosophies favour certain elements of each mode, depending upon social milieu, institutional setting, the issue at hand, and changing socio-economic status. The engineer, the planner and the administrator are not insensitive to the beauties of Nature, nor are they unaware of the dangers of 'tampering' with ecosystems, but their background education, professional experience and institutional values channel their perception in particular ways, so that judgments of a very specific kind ultimately emerge. They

58 Inlow G., *Values in Transition*, Wiley and Sons, New York, 1972; Forbes R.J., *The Conquest of Nature : Technology and its Consequences*, New American Library, New York, 1968.

59 O'Riordan T., *op. cit.*, pp. 12-14, also Benevise G., *The Politics of Expertise*, Croom Helm, London, 1973.

differ from the ecocentric environmentalists largely in the degree of responsibility demanded by their employment and the kind of aspirations their corporate or political masters express, so that to some extent a 'moral neutrality' guides their actions. But too neutral a stance may result in amoral behaviour. Sometimes the very nature of the roles they play may channel them into decision paths from which there is little chance of escape⁶⁰.

The ecocentrist is not entirely immune from this duality of role and behaviour. Commentators have stated that the author, Henry Thoreau, who escaped the comforts of nineteenth century American life for a more ascetic 'natural' existence in New England woodland, was dependent upon Bostonian society to publicise and proselytise his views, and he eventually returned to that community which had granted him the education and status he so very much enjoyed. Similarly, many modern environmentalists claim an affinity with Nature, but are essentially urban-technological in education and lifestyle⁶¹. Not all eco-activists perceive this dilemma or come to terms with it, but the reality remains that if environmentalists are to promulgate their doctrine and gain adherents, then they must use the institutions and media of the community they decry. This is not totally cynical or hypocritical; interest groups throughout the history of mankind have been forced to use the prevailing values and structure of society to transform its inner fabric and achieve reform⁶². Suffice it to record that eco-centrists and technocentrists do share some common concerns,

60 Hood C., *The Limits of Administration*, Wiley and Sons, London, 1976.

61 Berry J., *Lobbying for the People*, op. cit., Ch. 2; Frieden B., *The Environmental Protection Hustle*, M.I.T. Press, Cambridge, Mass., 1979.

62 Lauer R. (Ed.), *Social Movements and Social Choice*, Southern Illinois University Press, Carbondale, 1976.

even if they differ about solutions; compromise may not easily be attained, but discourse may aid understanding. It would be valuable if individual sincerity and commitment were recognised, but in the political arena where votes are counted, it is the influence of protagonist groups which tends to carry the day. In environmental conflict it is important to understand the origins and traditions of the participants; O'Riordan has attempted to aid our understanding by contrasting dichotomous viewpoints through his evaluation of ecocentrism and technocentrism.

2.7 SCRIPTURAL INTERPRETATION AND ENVIRONMENTAL ETHICS

One can view environmental beliefs in quite a different manner to that outlined above, by reference to the body of writing about scriptural interpretations of the relationship between man and Nature, i.e. religious justifications for 'use' of the earth's resources by mankind⁶³. Whilst scriptural interpretations are unlikely to be quoted in environmental conflict, the underlying values are significant and may be influenced or strengthened by religious belief. Discourse within this field is somewhat disordered; for every quotation from religious texts favouring one mode of environmental operation, a countervailing interpretation or alternative clause is usually available. Sharp divisions of opinion are evident but the aim is clear: to provide a reason or rationalisation for actions already predetermined. Man has seemingly infinite capacity to assign blame, preferably on people or forces beyond his control. Disasters are frequently attributed to the 'wrath of God' rather than human error, and claims are made that the scriptures reinforce man's special place in the world to use the fruits of the earth to fulfil a higher destiny. It would appear that many

63 O'Riordan T., *op. cit.*, pp. 203-208.

of these assertions are post-hoc rationalisations of attempts to increase material wellbeing, but environmentalists are equally prone to justify conservation by reference to religious texts advocating stewardship, social obligation and a concern for posterity⁶⁴.

But 'nature ethics', of the kind postulated by White and others, may run counter to cultural institutions which are highly dependent upon technology⁶⁵. Moncrief criticises White, arguing that the entire course of economic history in western nations has created dependence upon specialisation and technological artifacts, but that psychologically this reliance upon man-made contrivances causes many ethical and intellectual problems:

- (i) a lack of personal and moral conviction about environmental responsibility which is partly a product and partly a cause of our present inadequate resource management practices;
- (ii) a collective inability to identify and resolve the resulting moral dilemma; and
- (iii) an abiding Micawberish faith that something will inevitably save us, more often than not the 'something' being more technology.⁶⁶

Moncrief claims that many cultures, unless stable at low energy and resource usage, experience difficulty in managing collective (public) common-property resources irrespective of religious beliefs, simply because evolutionary human progress inevitably leads to gradual attrition of environment, even though some individuals may gain. This theme underlies Garrett Hardin's 'tragedy of the commons' which is explained later in this Chapter⁶⁷. Thus the failure of modern institutions to

64 Petrulla J., *op. cit.*, pp. 27-30 and pp. 232-234; O'Riordan T., *op. cit.*, p. 205.

65 White G., 'The Formation of Public Attitudes' in Jarrett H. (Ed.), *Environmental Quality in a Growing Economy*, John Hopkins Press, Baltimore, 1966, pp. 105-127.

66 Moncrief W., 'The Cultural Basis of our Environmental Crisis', *Science*, Vol. 170, 1970, pp. 508-512.

67 Hardin G., 'The Tragedy of the Commons', *Science*, Vol. 162, 1968, pp. 1243-1248.

cope with difficult problems of environmental policy and natural resources management is really a product of cultural ethos, not of religious beliefs about relationships with Nature. Without constant vigilance, even the most benign social institutions can produce environmentally damaging effects that were never part of their original purpose.

There is additional support for the contention that environmental ethics should not be based upon scriptural revelation alone. Leiss, for example, offers a penetrating analysis of the man-Nature relationship from the twin vantage points of political philosophy and Marxist ideology. He interprets the Baconian view of 'domination over Nature' not so much as elitist dogma, as a desire to use science to overcome welfare needs and prevailing social ills⁶⁸. It was the fear of misuse of man's prowess which led Bacon to conclude that the principal value of scientific advance was the latent freedom to develop more ethical values, for therein lay the true challenge. Leiss concludes that Bacon's fears were justified and that capitalist man has abused his intellectual powers and moral values in the pursuit of wealth and inequality, rather than peace and justice. Approvingly, he quotes C.S. Lewis's statement:

' Man's power over Nature turns out to be a power exercised by some men over other men, with Nature as its implement.' ⁶⁹

Leiss contends, in effect, that domination over Nature is not an end in itself but a reflection of social organisation, economic power and political philosophy, with ethical questions very much at stake.

68 Leiss W., 'The Social Consequences of Technological Progress: Critical Comment on Recent Theories', *Canadian Public Administration*, Vol. XIII, No. 3, Fall 1970, pp. 246-261.

69 Quoted in Leiss W., *The Domination of Nature*, *op. cit.*, p. 195.

These views are reinforced by other writers such as Mishan ('the abyss of progress')⁷⁰ and Hirsch ('social limits to growth')⁷¹, but such perspectives are perhaps more indicative of western uncertainty than any persuasive justification for political change in favour of social justice or obedience to religious dictums. The 'mastery over Nature' idea has a long history and provides perfect rationalisation for the frontier ethic of attrition of resources, but the concept has often been incorrectly viewed as separate from social contexts and political implications; at least Leiss, Mishan and Hirsch bring the latter perspective into the debate. Technology, for example, cannot simultaneously be viewed as 'neutral' yet claimed to have 'imperatives' and 'beneficial consequences' ; it is an instrument which is derived from particular values and may be used for good or ill; furthermore, despite much heralded promises, it creates major social costs as well as benefits⁷². What is needed then, are new philosophies and perhaps new institutions and procedures, reflecting a more sophisticated examination of linkages between man and his environment. Religious imperatives may help foster ethical debate, but such prognostications are not always easily translated into contextual practice.

It is possible to interpret environmental ethics in more diverse and pragmatic terms than those postulated by the near mystical, albeit spiritual, advocates of an earth-ethic. Petrulla draws attention to a variety of interpretations other than the man-Nature symbiosis; namely, issues relating to natural law and puritan traditions, ethics in public

70 Mishan E.J., 'The Abyss of Progress'. *Nation*, Sydney, 4 November 1968, pp. 466-468, also Mishan E.J., *Technology and Growth : The Price We Pay*, Praeger Publishers, New York, 1969.

71 Hirsch F., *Social Limits to Growth*, Routledge and Kegan Paul, London, 1977.

72 Boyle G., Elliott D., Roy R. (Eds) *The Politics of Technology*, Longman for Open University Press, London, 1977; Maynaud J., *Technocracy*, Faber and Faber, London, 1968.

discourse on environmental affairs, the social accountability of government and private corporations, environmental health hazards and their disclosure, the responsibility of public officials to serve the entire community and not selected interests, and various notions of the public interest and environmental equity and justice⁷³. In drawing attention to this gamut of moral and ethical questions, Petrulla intimates that resource conservation and development is firmly linked to the values and institutions of society, i.e. that every decision about resource allocation is, in effect, a judgment about what is good (or bad) for particular groups within the community. Petrulla's plea is to approach such decision-making not only in a rational manner, but to consider the moral implications as well.

In considering natural law and the puritan tradition, Petrulla not only quotes Leopold's 'natural law' principle that '. . . . a thing is right when it tends to preserve the integrity, stability and beauty of the biotic community. . . It is wrong when it tends to do otherwise'; but equally he embraces the puritan virtues of thrift, neatness, conservation, efficiency, providence for the future, and the eschewing of wasteful habits⁷⁴. Within the public forum, law is not the same as morality, nonetheless a plea may be entered to consider the needs and rights of minorities as well as majorities, and also to claim that civilisations fail if truth and honesty are not accepted values.

73 Petrulla J., *op. cit.*, Chapter 10. Note also Rawls J., *A Theory of Justice*, Harvard University Press, Cambridge, Mass., 1972, and Wingo L. and Evans A., (Eds.), *Public Economics and the Quality of Life*, John Hopkins Press, Baltimore, 1977. For discussion of environmental accountability see Brown M., *Laying Waste*, Pantheon Books, New York, 1979; Commoner B., *The Poverty of Power*, Alfred Knopf, New York, 1976.

74 Leopold A., *Sand County Almanac*, Oxford University Press, New York, 1949; Pirages D. and Erlich P., *Ark II : Social Response to Environmental Imperatives*, W.H. Freeman, San Francisco, 1974.

Petrulla is particularly critical of interest groups which falsify claims through public relations experts; the quality and reliability of information reaching the public is important in this regard. A further issue considered by Petrulla is the lack of sanctions against private corporations in situations where the community has been placed at risk through corrupt or inept actions. He quotes a number of cases involving toxic wastes, inadequately tested drugs and the like, arguing that cleanup costs are usually levied upon society and that wrongdoers escape punishment⁷⁵. Petrulla believes that the social responsibility of corporations is low and matched in part by poor accountability within the public sector, where anonymous public servants can conceal responsibility within a vast bureaucratic labyrinth. The arguments proclaimed by Petrulla are supplemented by empirical evidence and the statements of other authors. Collectively, this body of opinion confirms the point that environmental ethics encompasses more than the man-Nature relationship, it also raises a number of crucial moral questions about the conduct of society itself.

2.8 NORMS, VALUES AND THE POLITICAL PROCESS

Values are culturally weighted preferences as to what ought to be. As such, values act as powerful motivators towards particular beliefs and actions within the political arena and broader society in general⁷⁶. It is easy to define what 'values' are assumed to embrace, but astonishingly difficult to measure such attitudes and preferences in individual cases, simply because human beings often conceal their inner beliefs and preferences from society; moreover attitudes and standards tend to evolve and become transformed over time. The problem for

75 Brown M., *Laying Waste*, *op. cit.*; Starr C., 'Social Benefit versus Technological Risk', *Science*, Vol. 165, 1969, p. 232.

76 Rescher N., *Introduction to Value Theory*, Prentice-Hall, Englewood Cliffs, N.J., 1969.

governments is even greater, as public authorities and the legislature are expected to aggregate and synthesize the many individual utility weightings and preferences of citizens, as well as cater for minorities as much as the mass of society⁷⁷.

The literature on values is not entirely persuasive, since many methodological problems exist in research on individual groups; nonetheless it is commonly argued that human values are primarily shaped by three factors:

- (i) individual intelligence, cognitive ability and physical attributes, all essentially deriving from genetic inheritance;
- (ii) educational opportunity and community experience, blending social training and imposed norms which, on the whole, are structured and may involve conscious deliberative choice; and
- (iii) situational contexts and traumas of a random disruptive kind, which impose psychological scars and lessons of life, not always of a pleasurable kind.⁷⁸

The mix of intelligence, training and experience leads to the formation of inner drives, desires, fears and normative judgments about self and society which influence human behaviour in a variety of ways.

Rescher makes the point that insofar as social action is concerned, we are less concerned with what individual values are, than with their manifestation within the community, either as covert influence on self and others, or in the form of overt decisions and activities⁷⁹. 'Values' are thus bound up with Janus-headed disposition clusters; they will manifest themselves in two forms, as discourse and action. Rescher

77 Buchanan J., and Tullock G., *The Calculus of Consent*, University of Michigan Press, Ann Arbor, Michigan, 1965; Arrow K., *Social Choice and Individual Values*, Wiley and Sons, New York, 1963; Haefele E. (Ed.) *Representative Government and Environmental Management*, John Hopkins Press, Baltimore, 1973.

78 Rescher N., *Introduction to Value Theory*, *op. cit.*, pp.20-28; Tiselius A., and Nilsson S., *The Place of Values in a World of Facts*, *op. cit.*, pp. 115-125.

79 Rescher N., *op. cit.*, Chapter 3; Vernon M.D., *Human Motivation*, Cambridge University Press, London, 1969.

makes a plea for more conceptual clarity about values, arguing that we need to identify value subscribers (adherents), the value object, the locus of value, and a variety of other factors. He describes values as slogans capable of providing a rationalisation for action, by assuming benefit towards a particular state of affairs. This phraseology accurately conveys the fundamentally ideological nature of values; such inner beliefs and motivations are a banner under which one can fight, however mildly or concealed, being intimately bound up with an individual's notion of the good life and how it may be achieved. Because different value stances are likely and may be substantial, the probability of conflict is high, particularly where, as in environmental issues, conceptions of equity, futurity and material welfare are involved.

Geoffrey Vickers helps to elucidate the manner in which individual beliefs become transformed into political action, but prior to this he makes a useful distinction between norms and values⁸⁰. Vickers defines 'norms' as specific but tacit standards of what is individually and collectively acceptable to society; whereas he views 'values' as general personal statements of principle, of which the content is continually changing through evolving social norms, differing personal circumstances and experience, and an accompanying ethical debate. Vickers believes that individuals influence society, but in turn society affects individuals. Overall, Vickers's principal interest lies in 'appreciative systems' i.e. processes by which human beings selectively perceive and interpret situations in manners coloured by values and preconceptions, so that very particular views of the world emerge.

80 Vickers R.G., 'Values, Norms and Policies', *Policy Sciences*, Vol. 4, 1973, pp. 103-111; Vickers R.G., *The Art of Judgment*, University Paperbacks, London, 1965.

Vickers argues that societal norms involve standards which are explicit and implicit, but it is the mismatch between states of affairs (actual or hypothetical) and assumptions about 'what ought to be', which is the stimulus for analysis and action. Tacit norms tend to be evolving and never absolute; moreover ethical considerations are always involved. Norms act as mutual persuasion within society, whereas values are inner-directed and may run counter to prevailing modes of belief, or may constitute a negation of ethical considerations in favour of selfish needs or aspirations. The situation is further confused when people act differently to stated opinion or claims of intention. These ambiguities reflect not only confusion about issues or incapacity to organise, but signal that conformity to social norms may not represent the genuine belief of participants in cultural interaction. Further complexities arise in respect of political contexts and perception of time factors as well⁸¹.

There is one further dimension which requires identification: the number of conflicting and complementary roles which individuals are forced to perform within modern industrial society. One of the main deficiencies in the literature on individual values is that it fails to come to grips with the distinction between workplace and homelife, or official employment and voluntary community activities. Thus there is inadequate recognition of the fact that bureaucrats or businessmen of highest personal moral standards may find themselves constrained or enjoined to participate in decisions of dubious social value. While most individuals find it difficult to change roles instantaneously or to adopt amoral attitudes, peer group pressures can be enormous and accountability for decisions diffused. Thus perfectly reasonable men sometimes collectively make disastrous choices; the individual is forced to live with his conscience, but within organisations social costs can be persuasively argued away⁸².

81 Hall E.T., *The Silent Language*, Doubleday & Sons, New York, 1959.

82 Banton R., *Roles*, Tavistock Publications, London, 1965; on role conflict see Downie, R.S., *Roles and Values*, Methuen, London, 1971.

In general, words are not always matched by deeds. It is thus extremely difficult to gauge environmental attitudes and concerns, and so we are forced to use proxy indicators of some kind⁸³. Public opinion polls purporting to tap environmental cognition must be treated with considerable caution; nonetheless politicians are often beguiled by such surveys and may all too readily adjudge the wrong priorities⁸⁴. One can only conclude that polls and referenda represent socially acceptable ephemeral opinions influenced by media coverage and interest group lobbying, often of an extremely superficial kind⁸⁵. The real need is to discern more enduring and deep-seated concerns.

Perception of the issues often appears highest amongst those with greatest educational levels, but equally it can be argued that self-interest is involved, since these social groups will have more to lose if an environmental crisis arises. Hence environmental concern is closely related to a sense of political efficacy; but even among the most aware of the populace there is considerable evidence of inadequate and distorted information, great attention being paid to symbolic cures such as smoke pollution, while more subtle and dangerous trends are overlooked⁸⁶. In addition, people become accustomed to deteriorating circumstances and long-standing hazards, hence 'conditioning' to insidious environmental attrition is accepted. It is naive to assume that knowledge will necessarily heighten awareness, since information monitoring and interpretation are influenced by personal interest and political influence.

83 Altman I., and Wohlwill J., (Eds.), *Human Behaviour and Environment: Advances in Theory and Research*, Plenum Press, New York, 1979.

84 Best J., *Public Opinion : Macro and Micro*, Dorsey, Homewood, Illinois, 1973; Hennessy B., *Public Opinion*, Wadsworth Publishing, Belmont, California, 1970.

85 Teer F., *Public Opinion Polls*, Hutchinson, London, 1973; Schwartz A., *What Do You Think? : Public Opinion*, E.P. Dutton, New York, 1966.

86 Eckhardt K., and Hendershot G., 'Dissonance, Congruence and the Perception of Public Opinion, *American Journal of Sociology*, Vol. 73, 1967, pp. 226-234.

In the real world, people tend to direct information into selected channels on the basis of ideological outlook, previous experience, word of mouth discussion, and degree of political consciousness⁸⁷.

Overall it would appear that monitoring general cognition of environmental issues is a difficult exercise, possibly of dubious value. It may be preferable to focus on specific contextual situations, as in this thesis, in order to gain clearer understanding of a piece of the jigsaw puzzle. But those who believe that behaviour must not only be diagnosed, but changed by education, sanctions or regulation, face enormous problems. It is not merely a matter of persuasion to do good, but of deciding what degree of government intervention is acceptable in a democracy; and of coping with inconsistent behaviour by those who claim to have Nature at heart or who may be influenced by peer-group pressures, irrespective of personal belief. The transactional model of environmental cognition and behaviour between man and Nature is a field warranting further examination, only then will we be better able to explain environmental conflict and natural resources management.

2.9 FORMS OF ENVIRONMENTALISM

In analysing conservation controversies, how can we identify the core beliefs and attitudes upon which environmentalism is structured? Is it feasible to devise any typology of eco-activism in terms of motivation, ideology and aspiration? It seems extremely difficult to discover precisely what values and beliefs environmentalists generally hold, as very few detailed surveys have been carried out to ascertain such information⁸⁸. The central tenets of environmentalism are not

87 Erlich H.T., 'Attitudes, Behaviour and the Intervening Variable', *American Sociologist*, Vol. 4, 1969, pp. 29-34; Vickers R.G., *Value Systems and Social Process*, Tavistock Publications, London, 1968.

88 Milbrath has attempted to assess community opinion about environmental issues, but surveys of conservationists' views are less well documented. See Milbrath L., *Quality of Life on the Niagara Frontier Region of New York State*, Occasional Paper No.8, Environmental Studies Center, State University of New York at Buffalo, Dec. 1977; also Berry J., *Lobbying for the People*, op. cit., Chapter 4.

Model of the environmental crisis

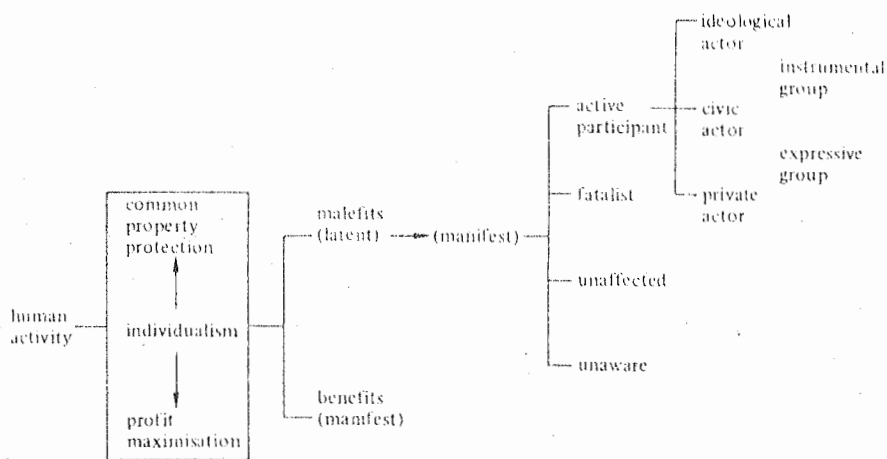
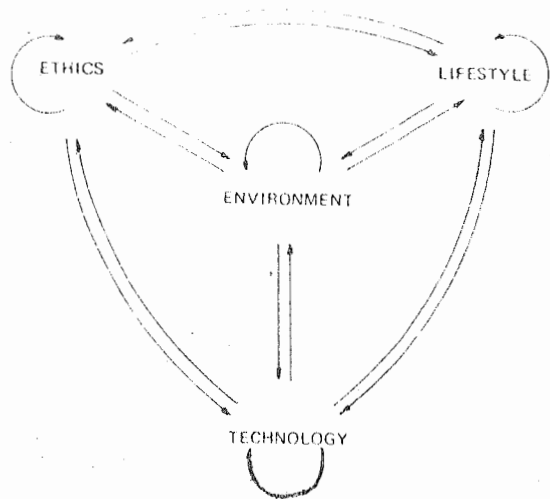


Figure 7.7. Public response to environmental issues. The numbers of people falling into any of the categories depicted will obviously vary enormously. Recently there has been a tendency for some citizens organisations to adopt both the instrumental and expressive group tactics in an attempt to change government policy through carefully planned campaigns in specific cases. (After O'Riordan, 1972a.)

(Source: O'Riordan T. *Environmentalism*, Pion Limited, London, 1977, p. 252)

DIAGRAM 1 : FACTORS AFFECTING THE FORM OF ENVIRONMENTALISM

recorded in any single text or policy statement, but in common with all social movements must be construed from the speeches and writings of leading participants, the public expressions of various conservation groups, as well as the core of literature which acts as a reference point when environmental issues are being debated. While there is no absolute agreement as to which issues are dominant, there does seem to be an almost international tendency to refer to certain key texts and identified problems in presenting the claims of environmentalists. Moreover, particular kinds of personal viewpoints may be identified. In general, it would appear that the conservation movement embraces at least three distinct types of activists, disparate in character but nonetheless interrelated:

- (i) those who are motivated by aesthetic and near-spiritual concepts of the relationship between man, God and Nature. These individuals may be loosely collectivised as 'earth-ethic believers';
- (ii) those who are concerned about the impact of technology upon mankind, the honest doubters about material progress, fearing resource scarcity or other claimed manifestations of western industrial capitalism. This group may be termed 'utilitarians' or socio-economic activists, being pragmatic in outlook, cognisant of political factors, and pessimistic and cynical about the prospects of reform; and
- (iii) issue-orientated individuals who take up a particular conservation cause when a specific area they cherish is threatened in some identifiable way.

The three groups are not mutually exclusive and individual conservation groups may include members motivated and enrolled for a variety of reasons other than those outlined above.

2.9.1. Advocates of an Earth-Ethic

Environmentalists of this ilk include those who are genuinely religious and in awe of the beauty and order of the universe, as well as those who are powerfully moved by some of the more philosophical treatises written about the relationship of man and Nature. There tends to be considerable referral to moral and scriptural texts, as well as to

'Nature' writers such as Thoreau, Emerson, Leopold, Stegner and others⁸⁹. The viewpoint may be encapsulated in Thoreau's claim that '... in wilderness lies the preservation of the world', or Leopold's observation that man's survival on earth as a species is utterly dependent upon empathy and respect for Nature:

'... A harmonious relationship to the land is more intricate, and of more consequence to civilisation, than the historians of progress seem to realise. Civilisation is not, as they often assume, the enslavement of a stable and constant earth. It is a state of mutual and interdependent co-operation between human beings, other animals, plants and soils, which may be disrupted at any moment by the failure of any of them. Land spoliation has evicted nations, and on occasions can do so again. ... In short, the reaction of land to occupancy determines the nature and duration of civilisation. ... ' 90

Although the approach is essentially philosophical, survival motives are incorporated. There is scientific support for the notion of an intricate relationship between man and Nature and commentators such as Odum have surveyed the empirical evidence and summarised the situation as follows:

- (i) homo sapiens is interrelated with, and subject to, all the basic processes of ecosystem dynamics and change;
- (ii) the tendency in natural ecosystems is towards stability and diversity, the preservation of which may be essential ingredients for the survival of mankind;
- (iii) it is structurally possible for random natural events to upset the fine balance of ecosystems, with often unpredictable but disastrous results;
- (iv) one of the principal sources of ecosystem failure is human intervention. Entire civilisations have been eliminated by failure to recognise the fragility of the relationship between man and Nature; and
- (v) population growth, technological impact, manufacturing processes and waste products are producing accelerating stress upon Nature, to the point where the sheer survival of mankind may be threatened. 91

89 Thoreau, H.D. *Walden*, Riverside Press, Boston, 1894; Emerson R., 'The Method of Nature' in *Complete Works Vol. 1 : Nature, Addresses and Lectures*, Houghton Mifflin, Boston, 1893; Leopold A., *Sand County Almanac*, *op. cit.*; Stegner W., *Sound of Mountain Water*, Doubleday, New York, 1969.

90 Leopold A., *op. cit.*, 'The Land Ethic', pp. 201-226.

91 Odum H., *Environment, Power and Society*, Wiley and Sons, New York, 1971.

There are few Australian equivalents of these overseas apostles of environmental concern, although Powell has provided an historical treatment of conservation philosophy in Australia which demonstrates that local advocates have attempted to influence community opinion⁹².

Judith Wright McKinney, a noted poet, has recorded Australian attempts to preserve the national heritage, invoking philosophical considerations as well as empirical evidence⁹³; but perhaps Olegas Truchanas came close to an indigenous viewpoint in his argument for wilderness retention in his adopted island State of Tasmania:

' We must try to retain as much as possible of what still remains of the unique, rare and beautiful. . . . Is there any reason why, given interest and enlightened leadership, the idea of beauty could not become an accepted goal of national policy? If we can revise some of the attitudes towards the land under our feet; if we can accept a role of steward, and depart from the role of conquerer; if we can accept the view that man and nature are an inseparable part of the unified whole, then Tasmania can become a shining beacon in a dull, uniform and largely artificial world. . . . ' 94

Similar sentiments have been expressed by a variety of Australian artists and poets, although only a small proportion are active in conservation organisations. Essays, orations and depictions serve not only to record prevailing interpretations of environment, but have a catalytic and educational effect in gaining converts for the conservation cause.

Additional to those who preach effort to save the natural world are the historians who trace the long-established links between particular societies and their landscapes. Perhaps the best known North American exponents are Turner with his 'frontier hypothesis'

92 Powell J., *Environmental Management in Australia 1788-1914*, op. cit., 82-95.

93 Wright J., *The Coral Battleground*, Thomas Nelson (Australia), Melbourne, 1977; Wright J., *Generations of Men*, Oxford University Press, Melbourne, 1966; Wright J., *Book of Australian Verse*, Oxford University Press, Melbourne, 1969.

94 Quoted in Angus M., *The World of Olegas Truchanas*, Olegas Truchanas Publication Committee (with Australian Conservation Foundation), Hobart, 1975, p. 51.

and Nash who explored the linkage between wilderness and the American mind⁹⁵. Elements of these arguments are discernible in lyrical writings such as those of Stegner⁹⁶, or analyses of the displacement of indigenous cultures by technological forces, e.g. Dee Brown's study of the destruction of North American Indian culture by white intrusion and land settlement⁹⁷. In Australia, such studies are more restricted in number, but valuable contributions to the analysis of cultural environments have been made by such authors as Moorehead, Powell and Manning Clark⁹⁸. There are also philosophers such as Passmore, Mannison, McCloskey et. al. who have raised awkward ethical questions about man's responsibility for Nature⁹⁹.

Although advocates of an earth-ethic are often labelled as utopian and unrealistic, this is an erroneous judgment. Many of the exponents of this school of thought are persons of great integrity who have reached their viewpoint only after long deliberation and agony of conscience. They are not a lunatic fringe to be brushed aside within the political and administrative systems; many are prepared to undergo considerable tribulation and personal sacrifice for their cause and will pursue the campaign over many decades and in a highly articulate manner. In this sense, they are the 'cadres' of the environmental movement, since they provide inspiration, dedication, justification and guiding principles

95 Taylor G.R., *The Turner Thesis : Concerning the Role of the Frontier in American History*, D.C. Heath, Boston, 1956; Nash R., (Ed), *Wilderness and the American Mind*, Yale University Press, New Haven, 1967.

96 Stegner W., *Sound of Mountain Water*, *op. cit.*; note discussion in Brooks P., *Speaking for Nature*, Houghton Mifflin, Chicago, 1981.

97 Brown Dee, *Bury My Heart at Wounded Knee*, Holt, Rhinehart and Winston, New York, 1972.

98 Moorehead A., *The Fatal Impact*, Hamish Hamilton, London, 1966; Clark Manning, *A Short History of Australia*, Heinemann, London, 1969.

99 Passmore J., *Man's Responsibility for Nature*, Duckworth, London, 1974; Mannison D., McRobbie M., and Routley R. (Eds), *Environmental Philosophy*, Monograph No. 2, Department of Philosophy, Research School of Social Sciences, Australian National University, 1980; McCloskey H., 'Rights', *Philosophical Quarterly*, Vol. 15, 1965, p. 118; Allsop B., *Ecological Morality*, Muller, London, 1972.

for effective action. They also ensure the transmittal of learning, continuity from one generation to another, and are unlikely to yield to token political appeasement or bureaucratic intransigence. Their spirit was well captured by Robert Marshall when he claimed:

' There is just one hope of repulsing the tyrannical ambition of civilisation to conquer every niche of the whole earth. That hope is the organisation of spirited people who will fight for the freedom of the wilderness.' ¹⁰⁰

The idealists may prove to be formidable adversaries after all.

2.9.2 Welfare Utilitarians

The majority of participants in the environmental movement are probably less concerned with philosophical arguments about the relationship of man and Nature, than with utilitarian viewpoints about material welfare and social equity. They tend to believe that prevailing modes of capitalist production not only reinforce and extend inequalities within the community, they also involve the exploitation of third world nations, as well as placing the entire future of mankind at risk by resource attrition and the creation of waste products, including nuclear materials, clearly hazardous to mankind¹⁰¹. Whether such assumptions are erroneous or not, a vast collection of literature has been generated about such issues and the environmentalists tend to place considerable reliance upon the arguments presented. It is impossible to review and totally substantiate or refute the many arguments and considerable case evidence assembled; it suffices to note that inconsistencies and errors are evident in both the claims of the environmentalists and the equally sweeping generalisations of their opponents¹⁰². One can gain some impression of the eco-activists' beliefs, however, by noting the issues which seem to generate consistent

100 Marshall R., *The Forest for Recreation* (A National Plan for American Forestry), Senate Document No. 12, 73rd Congress, First Session, 1933, pp. 473-476.

101 Seers R., *Dependency Theory*, Frances Pinter, London, 1981; Baran P., *The Political Economy of Growth*, Pelican, Harmondsworth, 1973.

102 Polemics are apparent on both sides, e.g. Marine G., *America the Raped*, Simon and Schuster, New York, 1969, cf. Frieden B., *The Environmental Protection Hustle*, *op. cit.*

concern and which seem to markedly influence the strategies adopted by conservation groups.

Surveying the many newsletters and public statements of environmental organisations, and the publications of authors such as Nader, Erlich, Commoner, Boulding, Lovins and Hardin, who are repeatedly quoted as infallible guides to current crises or future issues, one can compile a checklist of matters which are assumed to be central or important¹⁰³. The same issues preoccupy the minds of anti-conservationists such as Beckerman and Mellanby¹⁰⁴, hence confirmation is provided that a somewhat arbitrary and non-exhaustive list of utilitarian and equity concerns would include the following:

- (a) natural resources scarcity and limits to economic growth;
- (b) implications of the world population explosion;
- (c) the social impact of technological change;
- (d) equity aspects of income distribution and welfare;
- (e) policy aspects of quality of life; and
- (f) management of the public estate.

Associated with the above are related issues such as the feasibility or otherwise of a conserver society, the anti-nuclear campaign, and the 'spaceship earth' concept. There are some dangers in attempting to broadly summarise the central thrust of the conservationist philosophy, but it is feasible to indicate the kind of general stance adopted, without necessarily agreeing with the validity of such arguments. In carrying out this survey, it is interesting to note the North American origins of virtually all the arguments presented; there is little evidence of indigenous innovative thought from Australia, the local

103 Note the content of journals such as *Habitat*, (Australian Conservation Foundation), *Sierra*, (Sierra Club, USA), and *Chain Reaction*, (Friends of the Earth).

104 Beckerman W., *In Defence of Economic Growth*, Jonathon Cape, London, 1974; Mellanby K., Comments in the *Courier Mail*, Brisbane, 2 March 1978. (Professor Mellanby is an English scientist who has repeatedly criticised the Australian conservation movement for failing to adopt English countryside management practices).

contribution being centred principally on parochial issues or elaboration of overseas concepts.

(a) Resources Scarcity and Limits to Growth

Media comment tends to portray resources scarcity as a new crisis for homo sapiens, but factors of production such as land and minerals, pricing situations and the allocation of resources between present and future generations, have been the preoccupation of economists for several centuries¹⁰⁵. Perhaps it was the publication of the Club of Rome's report Limits to Growth in 1972 which really focussed public attention on the social and political implications of exponential utilisation of resources and initiated a debate, unallayed as yet, as to whether relative scarcity is significant or not¹⁰⁶. Although Limits to Growth has been vigorously assailed by a variety of opponents and countervailing improved assessments are now available¹⁰⁷, all scenarios presented are deficient in some degree, hence the long-term prospects are very unclear. Nonetheless, the recent so-called 'energy crisis' and the faltering economies of western capitalism have induced some pessimism, and serious questions are now being asked about prevailing modes of production and rates of extraction of basic materials as well as the wasteful nature of the 'convenience packaged' society.

What is not commonly realised is that environmentalists had accurately forecast these problems two decades earlier and now see

105 Blaug M., *Economic Theory in Retrospect*, Heinemann, London, 1968, O'Riordan T. *op.cit.* pp. 38-50; Herfindahl O., and Kneese A., *Economic Theory of Natural Resources*, Bobbs-Merrill, Columbus, Ohio, 1974.

106 Meadows D., et.al., *Limits to Growth*, (The Club of Rome Report), Universe Books, New York, 1972; Goldsmith A., et.al., 'Blueprint for Survival', *The Ecologist*, Vol. 2, 1972 (also Penguin Books, 1972).

107 For a summary of the debate see Freeman C., and Jahoda M., *World Futures : The Great Debate*, Martin Robertson, London, 1978; Note also Maddox J., *The Doomsday Syndrome*, McGraw-Hill, New York, 1972.

little prospect of curing the current economic recession unless there is a shift from high level technology and large-scale multinational production towards intermediate technologies, soft energy paths and more decentralised forms of commerce and industry¹⁰⁸. The viability of near steady-state economies has yet to be proved, but experience to date suggests that the claims of the conservationists may be technically and economically more feasible than many people imagine¹⁰⁹. The central difficulty is to persuade politicians and overcome the established counter-vailing tendency of vested corporate interests. The concern of the environmentalists about resource scarcity is not so much about prospective shortages of basic materials, as the political and social implications of gaps between 'haves' and 'have nots', as well as the identification of economic growth as a chimera, since the benefits of the economic system are not equitably distributed within the community. Advocates of economic growth respond by pointing out that although relative resource scarcities may occur, substitution is possible and technologies can be adapted; moreover, supplementary reserves of natural resources exist untapped as yet¹¹⁰. These claims are at least partially validated by the recent studies of Castle, Day, Kerry Smith and

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- 108 Krutilla J.V., 'Economics and the Environment : A Time for Taking Stock', in Department of Science & Environment, *Environmental Economics*, Australian Government Publishing Service, Canberra, 1979, pp 5-1 and Lovins A., *Soft Energy Paths*, Penguin Books, Harmondsworth, 1977.
- 109 Valaskasis K., Sindell P., Graham-Smith J., Fitzpatrick-Martin I., *The Conserver Society*, Harper and Row, New York, 1979; Pirages D., *The Sustainable Society*, Martin Robertson, London, 1977; Daly H., *Steady State Economics*, W.H. Freeman, San Francisco, 1977.
- 110 Kahn H., *World Economic Development : 1979 and Beyond*, Croom Helm, New York, 1979; Leontief W., 'The World Economy of the Year 2000', *Scientific American*, September 1980.

others, hence environmentalists may be selecting an inappropriate basis for action if they believe general natural resources scarcity is in prospect¹¹¹. They are on much safer ground, however, if relative scarcity in particular areas are considered. Moreover, the recent furore over oil prices and energy policies (especially nuclear energy) reveals strategic vulnerabilities and prospective rivalries between nation states of a highly polemical, alarming and dangerous character. Relative resource scarcity may be theoretically capable of solution; what is less predictable is the human response to assumed long-term deprivation of material benefits.

Environmentalists not only argue that the struggle for jurisdiction over resources is politically and economically dangerous, but that general attrition of environmental quality is occurring as well. 'Growth mania' is viewed with considerable suspicion on two grounds : principally because economic growth seems to create as many problems as it claims to solve, moreover the fruits of production are seen to be distributed in a highly discriminatory manner within society¹¹². A number of commentators from Mishan to Schumacher have argued that elaborate and dangerous fantasies exist that growth is the solution to problems caused by growth, i.e. that virtually all the output is 'benefits' when some are actually 'costs'¹¹³. Mishan is unashamedly acid in his

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- 111 Castle E., *Contemporary Issues in Natural Resource Economics*, Resources for the Future Inc., Washington, D.C., 1980; Stobaugh R., and Yergin D., *Energy Future*, Random House, New York, 1979; Kerry Smith V., 'Measuring Natural Resource Scarcity : Theory and Practice', Reprint 153, Resources for the Future Inc., Washington D.C., 1978. (Originally appeared in the *Journal of Environmental Economics & Management*, Vol.5, 1978, pp. 150-171).
- 112 Barkley P., and Seckler D., *Economic Growth and Environmental Decay*, Harcourt Brace & Janovich, New York, 1972; Daly H.E., 'Steady State Economies versus Growthmania', *Policy Sciences*, Vol. 1, Summer, 1974, pp. 149-168.
- 113 Mishan E.J., *The Costs of Economic Growth*, Praeger Publ. N.Y. 1967; Mishan E.J., *The Economic Growth Debate*, Allen and Unwin, London, 1977; Schumacher F., *Small is Beautiful*, Blond and Briggs, London, 1973.

attacks on the complacency of growth-mongers, whom he considers cling to the myth of 'progress' with quite undeserved hubris. Mishan claims that the argument is not whether economic growth is good for the nation but whether individuals actually receive any identifiable benefit at a specific point in time. He believes that growth always hurts somebody and that the paradigm is dangerous to the future of mankind, although he is unable to prove this point conclusively. Rightly or wrongly, environmentalists share this apprehension.

(b) Implications of the World Population Explosion

The principal reason why alarm is expressed about rates of natural resources extraction and depletion is that a relatively small number of nations control the bulk of corporate wealth and rates of resource utilisation, but a host of countries subsist in poverty and near-starvation due to rapidly increasing population numbers and limited income for the purchase of essential goods¹¹⁴. Hardin's 'lifeboat theory' suggests that in the scramble for resources, it is the rich and powerful who are likely to succeed, with dire consequences for those whom Fanon has called 'the wretched of the Earth'¹¹⁵. The quandary about the rapid increase in human population is not merely one of food distribution or income equity, but also the question of whether population pressures will create disease, famine, social unrest and other disasters. Environmentalists are not totally perceptive about such problems, but tend to condemn social and political systems which consciously

114 Borgstrom G., *Too Many : A Study of the Earth's Biological Limitations*, Macmillan, London, 1969; Singer J., *Is there an Optimum Level of Population*, McGraw-Hill, New York, 1972; Orphuls N., *Ecology and the Politics of Scarcity*, W.H. Freeman, San Francisco, 1977; Arad U.B. et.al., *Sharing Global Resources*, Council on Foreign Relations, Washington, D.C. 1979.

115 Fanon F., *The Wretched of the Earth*, Penguin Books, Harmondsworth, 1970.

exploit the resources and labour of poorer nations as factors of production for profit-making purposes. In this sense, the eco-activists are challenging multinational enterprises, certain trade agreements and repressive political regimes, but in a rather blanket and unsophisticated manner. The paradox is, of course, that few conservationists are prepared to actively work in aid programmes for under-developed and over-populated countries, moreover their own lifestyles often involve products which contribute to the practices they condemn. The one positive claim made by conservationists is that population policies can succeed only slowly, if at all, but more attention should be focussed on harmonising economic growth, social improvement and environmental protection in the context of resource availability and indigenous political, social and economic institutions¹¹⁶.

(c) The Social Impact of Technological Change

It is often claimed that environmentalists are anti-technological, even Luddites, but a discerning study of the literature of conservation organisations reveals that this claim is incorrect; eco-activists are worried about the kinds of technology being developed and applied, rather than being opposed to the use of artifacts of various kinds¹¹⁷. Technologists have a tendency to claim that their innovations are generally beneficial to society and while this may be true in part, it is not uniformly and unconditionally correct. Indeed eco-activists can point to many examples where the application of technology has had profound

116 Rifkin J., *Entropy : A New World View*, Viking Press, New York, 1981; Dickson D., *Alternative Technology*, Fontana, Glasgow, 1974; Crouch D., *State and Economy in Contemporary Capitalism*, Croom Helm, London, 1979; Pirages D., *The Sustainable Society*, Martin Robertson, London, 1977.

117 Ellul J., *The Technological Society*, Alfred Knopf, New York, 1964, cf. Weisburg B., *Beyond Repair : The Ecology of Capitalism*, Beacon Press, Boston, 1971, pp. 23-24 especially.

and sometimes disastrous social impacts in terms of redundancy in employment, task alienation, health and safety hazards and exploitation of particular sections of the community. Technology is not value-free; the kinds of innovations which are sought and the manner in which application is determined reflect the prevailing ideologies of prospective beneficiaries of risk-taking, i.e. corporate and political interests¹¹⁸. While the majority of the populace undoubtedly receive material benefits as well, the social implications are not always positive or time-phased in such a manner that longer-term results are at all clear. Many eco-activists believe that unanticipated consequences are often socially damaging and would prefer some controls, although this runs counter to democratic ideals.

As in the debate about economic growth, it is the rate of change, as well as the direction of change itself, which concerns environmentalists. Authors such as Winner, Lowi and Leiss survey technology-out-of-control as a theme within political and social systems¹¹⁹. Apart from arguing that technology is not neutral, i.e. that it has both positive and negative human impacts, such authors claim that there are different categories of change, involving determinism, drift and technological imperatives, i.e. means beget ends and justifications are sought for unanticipated maladies. Commentators claim that technologists are often elitist

118 Boyle G., Elliott D., & Roy R., *The Politics of Technology*, op.cit., Winner L., *Autonomous Technology : Technics-out-of-Control as a Theme in Political Thought*, M.I.T. Press, Cambridge, Mass., 1977; Illich I., *Energy and Equity*, Calder and Boyan, London, 1974; Morehouse W., (Ed.) *Science, Technology and the Social Order*, Institute of World Order, New York, 1979.

119 Lowi T., 'Decision-Making versus Policy-Making :Towards an Antidote for Technocracy', *Public Administration Review*, Vol. XXX, No. 3, May-June 1970, pp.314-345; Leiss W., 'Utopia and Technology: Reflections on the Conquest of Nature', *International Social Sciences Journal*, Vol. XXII, No. 4, 1970, pp.576-588.

and blind to social consequences; 'crises' are contrived to persuade governments of the need for technological fixes, and gadgetry overrides human relations¹²⁰. Leiss argues that science is seen as the tool to unlock Nature's secrets, but instead of leading man to conquer Nature, technology becomes the means of control of man over man. Man is under threat since technology provides the means for self-destruction. In essence, the eco-activists' argument is that unrealistic expectations of the benefits of technology need to be counter-balanced by realisation of the costs involved; the struggle for existence is not without some victims.

(d) Equity Aspects of Income Distribution and Welfare

Many environmentalists profess disquiet about existing modes of production and distribution of goods and services, arguing that they are being pushed along unwanted paths by consumerism, exploitation of particular social classes by private enterprise (especially transnational corporations) while technocrats and politicians are unwitting, but nonetheless willing participants in this process. Their anxieties are fuelled by activists such as Nader and Commoner, who produce powerful case-evidence of the social irresponsibility of private corporations, and a host of government reports and academic studies identifying poverty, unemployment, mistreatment of ethnic minorities, lack of welfare provisions and educational opportunities within western industrial societies¹²¹. Even more stark examples are drawn

120 Hertz D., 'The Technological Imperative : Social Implications of Professional Technology', *The Annals*, American Academy of Political and Social Sciences, Vol. 389, May 1970, pp. 95-106.

121 Wheelwright E. & Buckley K (Eds) *Essays in the Political Economy of Australian Capitalism*, ANZ Books Co., 1975; Harrison R., *Pluralism and Corporatism*, Allen and Unwin, London, 1974; Troy P., (Ed.), *A Just Society?* Allen and Unwin, Sydney, 1981; Titmuss R., *Social Policy*, Allen and Unwin, London, 1974; Atkinson A., *Unequal Shares*, Pelican, Harmondsworth, 1974.

from third world situations, where colonial-style exploitation of labour and resources and various neo-marxist dependency theories are used to illustrate the lack of equity in distribution of income and wealth¹²².

Despite the seeming validity of diagnosis of such ills, one should not totally accept the environmentalists' claims at face value; like their opponents, they are prone to broad generalisations and do not really offer much in the way of pragmatic and socio-politically acceptable solutions. While one might agree with Mishan that the 'abyss of progress' involves acceptance that discontent is the catalyst for seeking ever-higher levels of income and technology, this does not explain how alternative values or institutional systems might be substituted¹²³. To some degree the response of the eco-activists is to eschew radical reform, such as revolution, but to press for a change in relativities through improved opportunities for human advancement, and some redistribution of the benefits of economic growth towards less privileged members of society. It is recognised that such transfers will not solve all social ills, but even a modest shift is deemed beneficial and feasible. Even here, the environmentalists cannot prove their point entirely, as measurement of income distribution and general welfare is not a precise science and many private individuals, corporations and governments have a vested interest in ensuring that the relevant information is not made public¹²⁴.

122 Tucker R., *The Inequality of Nations*, Martin Robertson, London, 1977; Bhagwati J.N. (Ed.), *The New International Economic Order : The North-South Debate*, M.I.T. Press, Cambridge, Mass., 1977; Elliott C., *Patterns of Poverty in the Third World*, Martin Robertson, London, 1975.

123 Mishan E.J., 'The Abyss of Progress' *op. cit.*, Mishan E.J., 'Ills, Bads and Disamenities : The Wages of Growth', *Daedalus*, Vol. 102, 1973, pp. 63-88.

124 Atkinson A., *Unequal Shares*, *op. cit.*, Nath A., *A Perspective of Welfare Economics*, Macmillan, London, 1974.

Despite the obscurity of concepts such as an 'equitable income distribution' or 'social justice' authors such as Mishan, Galbraith, Fanan and Myrdal have been a powerful stimulus to environmentalists, through their argument that economic growth tends to exacerbate the uneven distribution of wealth¹²⁵.

Although this view is hotly challenged by critics such as Beckerman and Johnson, who argue that economic growth has meant welfare gains for all, the empirical evidence tends to support the proposition that not all citizens benefit in equal measure¹²⁶.

It is a largely subjective judgment as to how the pattern lies and whether it is acceptable to society; obviously the eco-activists do not accept the prevailing distribution. Like Toffler, they charge that all effective institutions are now locked into a paradigm of growth and so respond mainly to the pressure of growth-orientated vested interests. Some writers even assert that because of scale, many public and private organisations lack control and direction; the 'crisis' in their view is a crisis of management, with no single institution capable of exercising overall ecological control or ensuring social equity in society¹²⁷.

125 Galbraith J.K., *Economics and the Public Purpose*, Pelican, Harmondsworth, 1975; Myrdal G., *Asian Drama: An Inquiry into the Poverty of Nations*, Allen Lane, London, 1972.

126 Beckerman W., *In Defence of Economic Growth*, Jonathon Cape, London, 1974; Johnson W., 'Should the Poor Buy No Growth?', *Daedalus*, Vol. 102, 1973, pp. 165-190.

127 Toffler A., *Future Shock*, Random House, New York, 1970; Lindblom C., *Politics and Markets*, Basic Books, New York, 1977; O'Connor J., *The Fiscal Crisis of the State*, St. Martins Press, New York, 1980.

Perhaps the clearest exposition of these issues is provided by Hirsch in his Social Limits to Growth¹²⁸.

Hirsch questions :

- (i) why economic progress is assumed 'good' when it leads to dissatisfaction and stereotyped production;
- (ii) why redistribution is debated when satisfaction, opportunity and personal freedom (within limits) are equally important, and
- (iii) why government regulations and corporate power are increasing at the expense of individual liberty.

He answers by recognising the environmental debate about resources scarcity, but believes the principal problem is really attitudes and values. He goes beyond the recognition of private and social goods to a new category called 'positional goods', those which are beyond the reach of individual enjoyment due to crowding, the free rider problem, relative scarcity and prospects of irreversibility and long-run valuation. He argues that 'the flaw in the affluent society lies not in the false values of affluence, but its false promise'. We have been offered and expect more than the system can yield. Greediness leads to expediency and unjust situations.

Thus far, Hirsch's surmise appears simple, but he then enters more complex disputation, arguing that western society currently depends on commitment to a capitalist view of property rights; a liberal belief in democratic participation; and an economic defence of income inequality on grounds that the single-minded pursuit of self-interest works out in the end to

128 Hirsch F., *Social Limits to Growth*, Routledge and Kegan Paul, London, 1975.

maximise the general good¹²⁹. Hirsch argues that any two could survive together, but not all three. Either capitalism, democracy or inequality must be removed or neutralised. Hirsch does not offer any easy solution : how can people be persuaded to alter their behaviour and consider the collective good or the lot of minorities? Such a philosophy runs counter to the glittering prizes and cargo-cult mentality of political parties. Those who are supposed to safeguard democracy are perhaps unconsciously shaping its demise; at least that is the view of many environmentalists who would find Hirsch's claims persuasive and would wish to lobby to improve social justice.

(e) Policy Aspects of Quality of Life

As O'Riordan points out, perhaps one of the most enlightening ideas to emerge in the twentieth century is the 'spaceship earth' concept; that man lives on a small planet with a virtually closed natural resource system, with a limited environment, fixed mass and energy dimensions and with only limited assimilative-regenerative capacity¹³⁰. Barring extra-terrestrial travel and inputs of solar energy, whatever is produced, consumed and discarded within the resource system is here and will continue to be present on earth, such services are not separate but highly interdependent. Disruption of any one element places strain upon others, hence environmental management, however construed, is subject to the inexorable laws of natural systems.

129 Hirsch F., *op. cit.*, contrast the perspective in Berry D., and Steiker G., 'The Concept of Justice in Regional Planning: Justice As Fairness', *American Institute of Planners Journal*, November, 1974, pp. 414-421.

130 O'Riordan T., *op. cit.*, pp. 101-120; Boulding K., 'The Economics of the Coming Spaceship Earth', in Jarrett H., *Environmental Quality in a Growing Economy*, *op. cit.*

In recent years, claims of pollution, congestion, destruction of wilderness and the extermination of various animal and plant species have become rallying points for individuals concerned about the quality of human life or sensitive to the relationship between man and Nature¹³¹. Underlying this unease is the belief that somehow, despite attempted safeguards, losses in social amenity and economic welfare have occurred. These arguments converge upon a conclusion that less importance should be attached to the production and consumption of goods and services, with more attention focussed on other aspects of human experience, loosely collectivised by the phrase 'quality of life'. The precise nature of this 'quality' is neither easily specified or assessed, even though crude social indicators provide some proxy measure by listing desired aesthetic standards of perceived changes in environment¹³². Such ecological manifestations link to the social character of consumption, personal preferences and the objectives of government policy, but the linkages and relationships are by no means clear. Attitudes towards quality of life do become acted out in market situations, as well as social settings and the political arena, therefore decision-makers must recognise this fact, even though unsure of what individual and aggregative demands truly exist. This is not solely the notion that an affluent society can afford choice, but a realisation that environmental policy and natural resources management impose

131 Carson R., *Silent Spring*, Houghton Mifflin, Boston, 1962; Attenborough D., *Life on Earth*, Collins (for the BBC), London, 1979; Smith A., *Wilderness*, Allen and Unwin, London, 1978; Hardin G., *Exploring New Ethics for Survival*, Viking Press, New York, 1972; Mesarovic M., and Pestal E., *Mankind at the Turning Point*, Signet Books, New York, 1976.

132 Wingo L., 'Objective, Subjective and Collective Dimensions of Quality of Life' in Wingo L., and Evans A., (Eds), *Public Economics and the Quality of Life*, John Hopkins Press, Baltimore, 1977, pp. 13-27.

gains and losses on participants in contextual situations and that awkward choices about 'quality of life' have to be faced. Thus far, quality has generally been sacrificed for quantity, but eco-activists demand that the balance should be redressed.

(f) Management of the Public Estate

One of the most powerful essays in current conservation literature is a redrafted version of an address to the Pacific Division of the American Association for the Advancement of Science in December 1967 by the biologist, Garret Hardin. Entitled 'The Tragedy of the Commons', the paper discussed a class of social problems for which there is no simple solution; a situation in which moral reason and codes of conduct must apply¹³³. The 'commons' theme is exemplified by the dilemma facing medieval cattle-herders who, along with their neighbours, have free access and equal rights to graze animals on commonly-owned pasture. Such a system is viable only if all exercise personal restraint about the numbers of livestock permitted to use the common-property resources and nobody attempts to enclose land for private use. The dilemma facing each herder encompasses the classic issues of selfishness versus enlightened public spiritedness; shortsightedness versus an interest in future generations; and the relationship between knowledge of consequences, acceptance of blame and awareness of alternative courses of action; issues which lie at the heart of the environmental movement. The 'tragedy' is the inevitability of the destruction of the

133 Hardin G., 'The Tragedy of the Commons', *Science*, Vol. 162, 1968, pp. 1243-1248. See also Hardin G., *Exploring New Ethics for Survival : The Voyage of the Spaceship Beagle*, Viking Books, New York, 1972.

communally-owned resources, since Hardin contends that the only hope lies in mutual coercion to limit individual freedom, a compulsion which not only runs counter to most environmentalists' pleading, but which would involve constraints agreed to by every participating individual - an unlikely prospect¹³⁴.

Hardin is quite Malthusian in his reasoning, since he is sure not only that the commons are finite but also that everyone will pursue their own self-interest without concession, right up to the point of collapse. There is an implicit corollary - the prospect of an elitist managerial minority armed with powers to regulate human behaviour in the collective interest. Hardin adds a further dilemma in a subsequent essay on the 'lifeboat' concept; should the rich of the liferaft aid the struggling poor who are desperately trying to climb aboard¹³⁵? Here Hardin's conclusions contrast sharply with the social-justice theme of the 'commons'; he does not believe it possible to survive against the population explosion of the developing nations. Hardin's lifeboat analogy may be criticised on three grounds: (a) he is postulating that the rich nations possess unilateral power; (b) he is assuming that no controls exist against the population explosion; and (c) he is assuming that discrimination should be applied at the same time as self-restraint is argued in preserving the 'commons'. The two hypotheses do not fit happily together in any way¹³⁶.

134 Edney J., and Harper C., 'The Commons Dilemma : A Review', *Environmental Management*, Vol. 2, No. 6, 1978, pp. 491-507; Crowe B., 'The Tragedy of the Commons Revisited', *Science*, Vol. 166, 1969, pp. 1103-1107.

135 Hardin G., 'The Ethics of a Lifeboat', *Bioscience*, Vol. 24, October 1974, (18 pp).

136 Crowe B., 'The Tragedy of the Commons Revisited', *op. cit.*, p.1104; Nelles H., *The Politics of Development*, Macmillan of Canada, Toronto, 1974.

The other principal criticism of Hardin's approach is that he does not consider who should manage the commons and in what manner. Is he arguing for individual anarchy or collectivised totalitarianism? He does not seem to perceive any middle way and aspires to a 'natural' morality unlikely to occur in practice. Given the pluralistic values of modern industrial society, it is not individual goodwill which is likely to flourish but the particular interests of various lobbying groups. Others argue that citizens are not as selfish as Hardin claims, some social institutions have developed to monitor the views of minorities and deal with 'public interest' problems, although much remains to be achieved in this area of government. Hardin's ideology appears pessimistic and anti-altruistic, but even liberal thinkers tend to believe that some forms of compulsive restraint are necessary within society. Regulatory intervention is needed only when the scale of side effects is so detrimental to individuals or groups that representatives of the people must act on behalf of the community. Again, recognition of when to act and in what manner remains obscure¹³⁷.

The commons parable is powerful because it drives right at the heart of environmentalism - the moral relationship between short-term selfishness and enlightened longer-term community interest. Its fascination is its insolubility for, as Stillman correctly observes, the premises of the parable cannot produce a logical solution¹³⁸. For 'tragedy' to occur we must have

137 See Smith B., and Hague D., (Eds.) *The Dilemma of Accountability in Modern Government*, Macmillan, London, 1972; Weller P., and Jaensch D., (Eds.) *Responsible Government in Australia*, Drummond Publishing, Melbourne, 1980; Morstein Marx F., *The Administrative State*, University of Chicago Press, Chicago, 1957.

138 Stillman P., 'The Tragedy of the Commons : A Re-analysis', *Alternatives*, Vol. 4, 1975, pp. 12-15.

(a) a finite commons; (b) a consumption pattern that removes more than it puts in; and (c) selfishly motivated users who feel no community spirit. If these three conditions exist then no amount of coercion, no matter how mutually acceptable, can be sustained long enough to avoid disaster. Thus the tragedy thesis is challenging because it forces us to seek beyond these premises for an answer. Either we must relate our activities to ecological imperatives or we must develop an acceptable code of altruism and longsightedness to regulate our actions willingly in the wider community interest. Whether these changes can be achieved by enlightened reason or whether they will be thrust upon the world by the compulsion of catastrophe remains in dispute. Commentators such as Baden and O'Riordan argue that the dice could roll either way¹³⁹.

Hardin's thesis touches only one aspect of the broader problems relating to the management of common-property resources such as Crown land, national parks, coastal reserves and the like. A variety of authors such as Clawson, Shoard, Krutilla, Fraser-Darling, Leopold, Caldwell, Stankey, Healy, Irland and others have focussed on various aspects of wilderness preservation, outdoor recreation, grazing, forestry, mining and other development

139 Hardin G., and Baden J., (Eds.), *Managing the Commons*, W.H. Freeman, San Francisco, 1977.

activities relating to public lands management in a variety of jurisdictions¹⁴⁰. This is an area of fascination and concern to the environmentalists, principally because of the claim that attrition of public lands is occurring as well as transfer to private ownership. This is not the place to assess the eco-activists' perspective in detail; suffice it to record that the field is one where Australian environmentalism takes a particular form; most of the conservation controversies of recent decades involve attempts to change the use of public land or allocation to private corporations for resource exploitation purposes. Eco-activists argue that in few instances are the benefits transferred to the community; almost always the profits accrue to private individuals¹⁴¹. If this is occurring, then custodianship by public agencies and ministerial discretion has failed, and Hardin's 'tragedy of the commons' is operating in Australia as well as in other jurisdictions.

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- 140 Shoard M., *The Theft of the Countryside*, Temple Smith, London, 1981; Fraser-Darling F., *Wilderness and Plenty*, Ballantine Books, New York, 1968; Clawson M., and Knetsch J., *Economics of Outdoor Recreation*, John Hopkins Press, Baltimore, 1966; Caldwell L.K. et. al. *Citizens and the Environment : Case Studies in Popular Action*, Indiana University Press, Bloomington, 1976; Healy R., *Land Use and the States*, John Hopkins Press, Baltimore, 1976; Irland L., *Wilderness Economics and Policy*, Lexington Books, (D.G. Heath), Lexington, Mass., 1979; Hendee J., Stankey G., Lucas R., *Wilderness Management*, U.S. Department of Agriculture Forest Service, Miscellaneous Publication 1325, Intermountain Forest and Range Experiment Station, Missoula, Montana, 1978.
- 141 Dempsey R., (Ed.), *The Politics of Finding Out: Environmental Problems in Australia*, op. cit., Part 4: Analysis; Russ P., and Tanner L., *The Politics of Pollution*, Visa Books, Melbourne, 1974.

2.9.3 Issue-Orientated Individuals

Djilas has claimed that in politics, more than in anything else, the beginning of everything lies in moral indignation¹⁴². It is difficult to isolate the many reasons why normally passive individuals cease to be members of the 'silent majority' for a period, and suddenly become catalysts or activists within the political arena for a personal cause. Patently some citizens are moved by ideological considerations or normative judgments as to 'what ought to be', but many other individuals require the stimulus of growing disenchantment with a perceived situation before they will be stirred into action¹⁴³. The manner in which issues emerge within the community, become part of the political agenda, and are transformed by debate, interaction and lobbying in various ways, are discussed in Chapter 3, but in the interim some observations may be made about issue-orientated activism.

Anyone wishing to lobby for a specific cause or belief can choose the degree of activity, can determine how best to make an input into decision processes, can choose anonymity or visibility of action, and may utilise a variety of mechanisms such as letters, telephone calls, meetings, use of the media, legal action and the like¹⁴⁴. Recording these elements lends an air of rationality to the proceedings, but what little evidence is available in the form of psychological and sociological profiles of activists, tends to confirm that involvement is often purely

142 Djilas M., *Unperfect Society : Beyond the New Class*, Allen and Unwin, London, 1972.

143 Bolan S., 'Community Decision Behaviour : The Culture of Planning', *American Institute of Planners Journal*, September 1969, pp.301-310.

144 Heclo H., 'Review Article : Policy Analysis', *British Journal of Political Science*, Vol. 3, January 1972, pp. 83-108; Dye T., *Understanding Public Policy*, Prentice-Hall, Englewood Cliffs, N.J., 1972; Burch W.R., 'Who Participates?: A Sociological Interpretation of Natural Resource Decisions', *Natural Resources Journal*, Vol.16, 1976, pp. 41-45.

spontaneous and almost inadvertent. Once people's emotions are aroused about a particular issue, there is generally a feeling of frustration until circumstances suggest an avenue for action, and when this opportunity occurs, the mode of intervention is often seized, even though superior tactics may exist unperceived. This 'amateur' approach may be modified through the stimulus of friends or the media, but once commitment to action occurs, relief and stimulation is experienced from association with seemingly like-minded individuals¹⁴⁵.

It would appear that issue-orientated individuals usually have quite limited but specific aims in view and will only adhere to the environmental cause until such time as their objective is achieved or not, or else disillusionment with proceedings occurs. Limited focus, single-minded aspiration should not be under-estimated; it often means that for a restricted period within a particular milieu and with a clear aim in view, individuals will demonstrate high motivation and activism¹⁴⁶. Analysts argue that issue-orientated activists tend to operate more upon personal considerations than altruistic perspectives, but inculcation of values may occur and longer-term conversion to environmentalism may arise¹⁴⁷.

Issue-orientated individuals are often impatient with umbrella-type conservation groups, seeking abandonment of diverse programmes in favour of their specific cause. This is the catalyst for the formation of new groups of the 'stop' or 'save' variety that engage in concerted but specialised campaigns. A learning process usually

145 Ackerman B., & Ackerman S., *The Uncertain Search for Environmental Quality*, Free Press, New York, 1974.

146 Moe T., *The Organization of Interests*, University of Chicago Press, Chicago, 1980.

147 Allaby M., *The Eco-Activists*, Charles Knight, London, 1971, Chapter 11, *passim*.

occurs as the new organisation struggles into existence, gains leadership, funds and adherents and begins to mount a variety of activities. Victory or defeat may mean the demise of the group, or else transformation for a new cause. It is the sheer diversity of issues, tactics and membership of single-aim conservation groups which opponents often find difficult to cope with. Participation in environmental debate may appear short-lived and narrow in focus, but it can always harden into a protracted and intense campaign ¹⁴⁸.

2.10 RECAPITULATION

It is apparent from the foregoing, that environmentalists are motivated by a variety of concerns about the relationship between man, Nature and the material world of tecnocratic societies. Such motivations and beliefs are fuelled by two factors: perceptions of the natural environment and inner personal values derived from education and experience in life. Environmentalists may or may not feel disposed to become social catalysts or political activists, but three interrelated forms of environmentalism are discernible and tend to induce three different perspectives as to what needs to be done if environmental reform is to occur.

Earth-ethic believers plead for more care in resource conservation and development, based upon aesthetic and spiritual considerations, but reinforced by the assumption that destruction of Nature will lead to the demise of mankind itself. Welfare utilitarians are motivated by assumptions about desirable lifestyles, but are less dogmatic about aesthetic and spiritual values, being more concerned with social equity, opposition to bureaucratic and corporate power, and suspicion of the end result of technocentrism. Utilitarian activists are influenced by

148 Smith F., *The Politics of Conservation*, Random House, New York, 1966; Rosenbaum W., *The Politics of Environmental Concern*, Praegar Publishers, New York, 1977.

selfish as well as altruistic considerations and tend to rely upon economic and social evidence; but whether they recognise it or not, they are fundamentally challenging many of the basic tenets of western industrial capitalism. Issue-orientated individuals may have a limited focus of concern, usually a specific area or issue, but they are prone to act decisively for a period to achieve the protection of their interest. Their timescale of attention may be restricted, but activism on one issue may induce longer-term involvement in other environmental concerns. The degree of commitment does vary, dependent upon a variety of factors which are discussed in Chapter 3. In the interim it is necessary to consider how environmental beliefs become translated into action within the political arena and how we may analyse the kind of interaction and debate which occurs there.

PART C : ENVIRONMENTALISM AS POLITICAL CAUSE

2.11 INTEREST GROUP OR SOCIAL MOVEMENT?

One of the questions to be posed concerning environmentalism is whether its adherents constitute an identifiable social movement or merely fulfil the rubric of a vocal and activist interest group lobbying for particular personal ends. Are the terms 'social movement' and 'interest group' synonymous anyway? The literature is not entirely clear on this point, in part because different theorists have treated the matter in separate yet overlapping ways. As well the origins, structure and functions of environmental groups show great diversity of values, with social dynamics adding a further dimension¹⁴⁹.

149 Garson C.D., *Group Theories of Politics*, Sage Publications, Beverley Hills, 1978; Moe T., *The Organization of Interests*, University of Chicago Press, Chicago, 1980; Dye T., and Zeigler H., *The Irony of Democracy*, Wadsworth Publishing, Belmont, California, 1970.

It seems likely that environmentalism embraces both social movement and interest group characteristics, since the movement constitutes a broad body of opinion favouring particular values and attempts to educate the public towards specific goals; yet an element within this social grouping plays a more activist role within the political arena¹⁵⁰. We must examine some strands of these arguments if we are to understand the phenomenon of eco-activism with any degree of sophistication.

2.11.1 Environmentalism as Social Movement

Roberts and Kloss argue that social movements may be classified as either ethnocentric, tempocentric (time-centred) or class-based, but irrespective of the inner beliefs and motivations of the individuals involved, supporters will ascribe particular qualities to the movement to ensure cohesion and gain support while opponents will vilify it by adopting denigratory labelling¹⁵¹. Social movements obviously involve collective behaviour and are potentially large in scope since they aim to gradually convert the total society, but tend to use relatively non-institutionalised means to achieve their objectives.

Wilson defines social movements as:

' . . . conscious organised attempts to bring about or resist large scale change in the social order by persuasion and non-institutionalised means.' ¹⁵²

The term 'institutionalised' creates two difficulties: in modern society effort tends to be orchestrated and most groups are inclined to take a specific organisational form at some stage of the campaign;

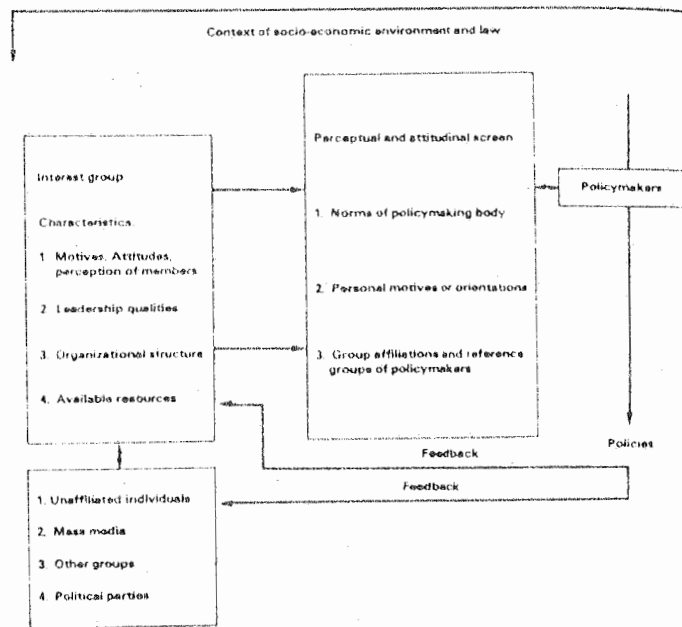
150 King C., *Social Movements in the United States*, Random House, New York, 1956; Fleming D., 'The New Conservation Movement', *Perspectives in American History*, Vol. 6, 1972, pp. 66-68; Berry J., *Lobbying for the People*, op. cit., Chapter 8.

151 Roberts E., and Kloss R., *Social Movements : Between the Balcony and Barricade*, Mosby, St. Louis, 1979; Garner R., *Social Movements in America*, Rand McNally, Chicago, 1977.

152 Wilson J., *Introduction to Social Movements*, Basic Books, New York, 1973, p. 8.

moreover if effort is not co-ordinated, there seems little prospect of political recognition and acceptance¹⁵³. Indeed, Wilson seems to contradict his own definition by considering in some detail how discontent can prove to be a catalyst and how support may be generated and mobilised.

Wilson takes a generally conflictive perspective in identifying the nature and variety of social movements, arguing persuasively that the origin of social groupings always lies in disquiet with the prevailing system (see Diagram 2 below). Wilson further argues that discontent



(Source: Fagence M. *Citizen Participation in Planning*, Pergamon Press, London, 1977, p. 220.)

DIAGRAM 2 : INTEREST GROUPS IN THE POLICY PROCESS

153 Zeigler H., *Interest Groups in American Society*, Prentice-Hall, Englewood Cliffs, N.J., 1964; Wilson J., *op. cit.*, Chapter III, *passim*.

may be both induced and collectivised, but the activists are sometimes overwhelmed by their creation in that social movements may take unanticipated directions in structure, integration and tactics, as well as degree of overall commitment and probability of goal achievement¹⁵⁴. He states that fundamental differences occur dependent upon whether the movement is value-orientated, power-orientated or participation-orientated¹⁵⁵. This view seems to accord well with current theories in the field of political science, where two paradigms are frequently contrasted: a social conflict model based on the struggle for political influence by various interest groups within the community, the other a more democratic participatory model, which assumes that it is a civic right and responsibility for citizens to participate in government and help shape the future of society¹⁵⁶.

Much attention is focussed on the structure of social movements, but the interaction processes are at least as important. In this field adaptation is significant; social movements tend to selectively identify aspects of the social environment for self-justification and use. The primary need within the movement is for manpower and some financial resources, but access to the media for promotion of image and message comes a close second in modern society¹⁵⁷. Recruitment involves varying degrees of commitment to the cause, therefore objectives are often flexibly translated in an effort to gain converts and broaden support. All social movements suffer problems of lack

154 Wilson J., *op. cit.*, Chapters VI and VII; Wilkinson P., *Social Movements*, Macmillan, London, 1971.

155 Wilson J., *ibid*, Chapter I, pp. 14-22. Wilson also discusses transformative, reformative, redemptive and alterative types of social movements.

156 Contrast Simmie J., *Citizens in Conflict*, Hutchinson, London, 1974, and Fagence M. *Citizen Participation in Planning*, Pergamon Press, London, 1979.

157 Gable R., 'Interest Groups as Policy Shapers', in Anderson J. (Ed.), *Politics and Economic Policy-Making*, Addison Wesley, Reading, Mass, 1970, pp. 4-17; Holtzman A., *Interest Groups and Lobbying*, Macmillan, New York, 1966; Major G., (Ed.), *Mass Media in Australia*, Hodder and Stoughton, Sydney, 1976.

of cohesiveness and varying internal opinion, hence much effort is expended on retaining adherence¹⁵⁸. Coalition-building may also be engaged in, but here compromises of stance have to be considered as the price of co-operation¹⁵⁹.

Goal attainment may never be totally achieved, in that social movements sometimes suffer ambiguities in objectives or have elastic and expanding aims¹⁶⁰. Performance is often piecemeal, with partial success far more common than complete victory. Beliefs about 'success' depend upon whether charismatic or ideological leadership is involved, but pragmatic leadership is essential if the movement is to continue and prosper¹⁶¹. Tactics may range from outright confrontation to negotiated settlement, but a selective armoury of approaches seems more advisable than reliance upon one central strategy. Variables such as relativities within society, inequalities, dependency, subjugation, compromise, coalition-building and trade-offs are usually considered, but response to countervailing interests may dictate which tactic is employed at any given time.¹⁶² Violence or escalation to unreason are situations to be avoided as they will move the game from gain-loss possibilities to winner take all.

As noted in subsequent discussion about 'interest groups', integration within social movements creates some problems, not least being the shift from improvisation to formality, i.e. to 'organisation'.

158 Wilson J., *op. cit.*, Chapter VIII, Coser L., *The Functions of Social Conflict*, The Free Press, Glencoe, Ill., 1956.

159 Wilson J., *op. cit.*, Chapter X.

160 Bachrach P., and Baratz M., *Power and Poverty : Theory and Practice*, Oxford University Press, New York, 1970.

161 Moe T., *The Organization of Interests*, *op. cit.*, Chapter 4.

162 Lauer R., (Ed.), *Social Movements and Social Change*, Southern Illinois University Press, Carbondale, 1976, Chapter 13; Chin R., and Benne K., 'General Strategies for Effecting Changes in Human Systems' in Bennis W., Benne K., and Chin R., (Eds.), *The Planning of Change*, Holt Rhinehart and Winston, New York, 1969.

Most social groups, as they become more firmly established, ultimately involve formal institutions, even bureaucratisation, but at that point flexibility and spontaneity decrease and there is some risk of capture and manipulation by individuals anxious to use the movement for personal ends¹⁶³. Yet unco-ordinated effort is not only wasteful but relatively ineffectual, hence a narrow balance must be maintained between integration of effort and undue formalisation. If the opposition is highly integrated and institutionalised, it tends to force formality on the social movement, but the question is whether the followers will comply with decisions of the executive. Social movements are by definition dynamic, therefore they tend to undergo transformation, changes of direction or die away and be replaced by others¹⁶⁴. This is the real test of their relevance to the society they profess to reform. The persistence of the conservation movement in recent decades, although in evolving form, is an intimation that its task is not yet fulfilled, but that many adherents will persist in proclaiming its message¹⁶⁵.

2.11.2 Environmentalism as Interest Group Politics

Interest group theory tends to focus on the capacity or otherwise of various lobbyists and pressure groups to bring about change through the medium of politics¹⁶⁶. In this sense it is very much 'power' orientated and tends to downplay consensus or value changes in society that occur through normal social interaction, educational processes and the like. It is within the political arena that primary

163 Etzioni A., and Etzioni E., *Studies in Social Change*, Holt Rhinehart and Winston, New York, 1966.

164 See Symposium on Environmentalism, *Natural Resources Journal*, Vol. 20, No. 2, March, 1981, pp. 221-358.

165 Rosenbaum W., *The Politics of Environmental Concern*, op. cit., Chapter 1; Petrulla J., *American Environmentalism: Values, Tactics, Priorities*, op. cit., Part 1, Chapters 1 and 2.

166 Gusfield J., (Ed.), *Protest, Reform and Revolution : A Reader in Social Movements*, John Wiley, New York, 1970; McConnell G., *Private Power and American Democracy*, Vintage Books, New York, 1970; Richardson J., and Jordan A., *Governing Under Pressure*, op. cit., Chapters 1 and 6.

interaction and decision-making is assumed to occur. As O'Riordan reminds us, politics is more than the mere distribution and use of power; it is the socially acceptable process through which authority and influence are recognised, legitimate disagreements are arbitrated and the public purpose (insofar as it is capable of definition) is executed. No one denies that the political mechanism is sometimes inequalitarian, or that it may favour the wants of a minority over the needs of a majority, but politics, for all its faults, is what we live by and, with varying degrees of reluctance accept¹⁶⁷. We accept it because we are all part of a 'political culture' which establishes the norms and rules of procedure by which we are collectively governed¹⁶⁸.

Within this framework, Berry and some other commentators on interest groups, embrace an assumption that group activity may be altruistic in intention. Berry, for example, defines a public interest group as :

' . . . one that seeks a collective good, the achievement of which will not selectively and materially benefit the membership or activists of the organisation.' 169

It is important to stress that there are two components of this definition : one criterion is the ideology and motivation of the people seeking these objectives and the other dimension is the means they use. Because public goods differentially benefit the community, it seems inevitable that Berry's definition is too pure; many groups are actively pursuing aims of personal reward or protection of privilege. Berry would label these groups as 'private interests', but the situation

167 O'Riordan T., *Environmentalism*, op. cit., pp. 228-230; Berry J., *Lobbying for the People*, op. cit., pp. 286-293.

168 Lipsky M., 'Protest as a Political Resource', *American Political Science Review*, December 1968, pp. 1144-1158, Marris P., and Rein M., *Dilemmas of Social Reform*, Atherton Press, New York, 1967.

169 Berry J., *Lobbying for the People*, op. cit., pp. 6-10.

becomes obscured when rhetoric is involved or diverse groups pursue a mix of objectives with many motivations in mind¹⁷⁰.

Additional distinctions are necessary as many groups obtain funding from a variety of sources, including government, and therefore function under varying constraints and should be studied from a different viewpoint¹⁷¹.

Community organisations may be regarded as interest groups if they are actively trying to influence the distribution of political power or the output of governmental systems in some way. There have been a number of studies of such situations in North America and the United Kingdom, using survey techniques to obtain information about voluntary associations; most analyses have concentrated on legislative lobbying, but administrative influence is equally important and Berry surveys these and other forms¹⁷². One difficulty is the lack of clear demarcation between social movements and interest groups. One possible distinction is that social movements are often involved with substantial long-term change of community values whereas interest groups may be more concerned with specific and immediate issues, such as protection of the status quo or defence of a particular area or privilege¹⁷³.

Commentators such as Zeigler refute the notion of a group theory

170 Useem M., *Protest Movements in America*, Bobbs Merrill, Indianapolis, 1975.

171 Lissner J., *The Politics of Altruism*, Lutheran World Federation, Geneva, 1977.

172 Berry J., *Lobbying for the People*, *op. cit.*, Ch. IX and X; also Fagence M., *Citizen Participation in Planning*, *op. cit.*, Ch. 6 and 7.

173 Encel S., *Equality and Authority : A Study of Class, Status and Power in Australia*, Cheshire, Melbourne, 1970; Truman D., *The Governmental Process*, Alfred Knopf, New York, 1971; Harmon G., 'Pressure Groups and the Australian Political System', in Summers J., Woodward D., and Parkin A., *Government, Politics and Power in Australia*, Flinders University Press, Adelaide, 1979, pp. 298-308.

of politics, but recognise the importance of group activities within politics¹⁷⁴. Zeigler also claims that it is misleading to think of interest groups as though they were always synonymous with formal organisations and tightly structured policies. The appropriate mode of thought is to view group activities as inclining towards a common direction, rather than acting along rigid ideological lines¹⁷⁵. This seems to agree with contentions by Lissner and Molin that many community organisations suffer from 'goal ambiguity', but that ambiguity is sometimes a useful tool in politics¹⁷⁶. Other analysts argue that administrators and interest groups cannot easily interact under conditions of uncertainty, hence both seek to regularise relationships in some way¹⁷⁷.

Within Western industrial nations such as Australia, interest articulation and aggregation are largely achieved through formal organisation. But Zeigler argues that specialisation within complex societies breeds social change, with emergent groups serving as adaptive mechanisms whereby individuals try to cope more effectively with altered values and relationships. In this sense, organised groups begin when existing institutions prove inadequate to deal with social problems¹⁷⁸. Traditional policy process models tend to view interest groups largely as demand articulation, but there is now widespread recognition that activism goes beyond the policy issue identification stage, to total

174 Zeigler H., 'Interest Groups and Public Policy : A Comparative Revisionist Perspective' in Scott R.(Ed.), *Interest Groups and Public Policy : Case Studies from the Australian States*, Macmillan, Melbourne, 1980, pp. 1-16.

175 *Ibid*, pp. 2-5.

176 Lissner J., *The Politics of Altruism*, *op. cit.*; Molin B., *The Supplementary Pensions Question : A Study in Swedish Party Politics*, Scandinavian University Books, Gothenburg, 1965.

177 Fagence M., *Citizen Participation in Planning*, *op. cit.*, Chapter 3; Richardson J., and Jordan G., *Governing Under Pressure*, *op. cit.*, Chapters 5, 6 and 7.

178 Zeigler H., *Interest Groups in American Society*, *op. cit.*

interaction within the policy milieu, including decision stages, implementation, policy impact and feedback¹⁷⁹.

There are other factors which impact upon the strength of an interest group system and one of the most intriguing is population dispersion or concentration. Australia is an intensely urban society, yet many of its crucial policy issues relate to natural resources in isolated regions of the continent¹⁸⁰. However, a concentrated population may not prove conducive to the proliferation of groups and if population centres are scattered, as is the case in all the Australian States, communication and cohesiveness becomes difficult to achieve. Zeigler believes that one manifestation of concentrated populations widely separated from each other is enhancement of the position of established groups, rather than proliferation of diverse groups or the formation of new ones¹⁸¹. These are interesting speculations, but are challenged in some degree elsewhere in the thesis.

Adding to the complexity of this situation is the notion of interest groups within a federal political system. Because of the division of responsibility between national, state and local authorities, the opportunities for intervention appear greater than in unitary systems. Groups which are unsuccessful or ineffective at one level may prove successful at another¹⁸². Opportunities are especially wide when

179 Mitchell J., and Mitchell M., *Political Analysis and Public Policy*, Rand McNally, Chicago, 1969; Jenkins W., *Policy Analysis*, Martin Robertson, London, 1978.

180 Sinden J., (Ed.), *The Natural Resources of Australia: Prospects and Problems of Development*, Angus & Robertson, Sydney, 1972.

181 Zeigler H., 'Interest Groups and Public Policy: A Comparative Revisionist Perspective' in Scott R., (Ed.), *op. cit.*, pp. 4-7.

182 *Ibid*, pp. 5-9; Wilson J., *Introduction to Social Movements*, *op. cit.*, Chapter VII; Rosenbaum W., *The Politics of Environmental Concern*, *op. cit.*, Chapter 10.

functions are shared between two levels of government. A multiplicity of access and decision points, while potentially increasing group participation in decision-making, slows down the process of policy resolution quite considerably. Centralisation, on the other hand, leads to competition for attention and thus contributes to the professionalisation of group politics. There will always be governmental activities at the margin, however, where authority and style are not yet determined and where interest groups can bring pressures to bear through innovative ideas and multiple-centred influence¹⁸³.

Yet participation today is very much linked to the growth of technology and expertise, therefore interest groups and community organisations must strive for the latter¹⁸⁴. Systems with low levels of activity are likely to be characterised by a few highly influential groups with narrowly specialised demands. In more diverse and complex social systems, access to the political arena may be much more competitive and dependent upon identified competence. Yet those actively involved in key decision-making may be small in number; the phenomenon of an alienated but passive citizenry is perhaps a disturbing indicator of our times. The power of group leaders is enhanced by the apathy of those who maintain membership but display little interest in the statements of spokesmen who, in any event, may not necessarily totally reflect the attitudes of members¹⁸⁵. Yet in more active groups diversity of opinion does not make consensus likely. Here the single-issue groups

183 Almond G., and Verba S., *The Civic Culture*, Little Brown, Boston, 1965; Fagence M., *Citizen Participation in Planning*, *op. cit.*, Chapters 1, 2 and 3.

184 O'Riordan T., *Environmentalism*, *op. cit.*; pp. 230-240; Eckstein H., *Pressure Group Politics*, Stanford University Press, Stanford, 1960.

185 Lauer R., (Ed.), *Social Movements and Social Change*, *op. cit.*, Chapters 3 and 5; Moe T., *The Organization of Interests*, *op. cit.*, Chapter 3.

may have some advantage; such associations are often strongly motivated by the intensity and apparent uniformity of their beliefs¹⁸⁶.

Access to information, or the delivery of information, are means of influencing situations. Once a decision is even mentally conjured by the parties to an issue, it becomes extremely difficult to obtain effective review, even though basic institutional mechanisms may exist. Phrases such as 'mediating between antagonists', 'seeking mutual accommodation' and 'balancing competing demands' are frequently used, but Zeigler believes few groups really gain access to policy formation; most groups participate only in the response to policy¹⁸⁷. Scott does not entirely agree with this assessment, arguing that when interest groups prove troublesome to political and administrative systems, there is a tendency to 'incorporate' them into token advisory bodies, where recognition occurs but influence may be gradually diffused¹⁸⁸.

Scott has posed the question of whether interest groups contribute to, or detract from, processes of democratic government¹⁸⁹. This is a much debated topic amongst political scientists, but a somewhat confused exchange has resulted since exhaustive disputation between pluralists, elitists, functionalists and radicals has tended to obscure evaluation, rather than clarify it¹⁹⁰. Although there is a danger that interest

186 Wilson J., *Introduction to Social Movements*, *op. cit.*, Chapter VII.

187 Zeigler H., 'Interest Groups and Public Policy : A Comparative Revisionist Perspective' in Scott R., (Ed.), *op. cit.*, pp. 11-16.

188 Scott R., *Interest Groups and Public Policy : Case Studies from the Australian States*, *op. cit.*, pp. 224-233.

189 Scott R., *ibid.*, pp. 238-240; See also Hofferbert R., *The Study of Public Policy*, Bobbs Merrill, Indianapolis and New York, 1974.

190 Golembiewski R., et. al., *Dilemmas of Political Participation : Issues for Thought and Simulations of Action*, Prentice-Hall, Englewood Cliffs, N.J., 1973; Higley J., Deacon D., and Smart D., *Elites in Australia*, Routledge and Kegan Paul, London, 1979; Lucy R., (Ed.), *The Pieces of Politics*, Macmillan, Melbourne, 1975.

groups may be captured by vested interests and bring influence to bear on society, most commentators tend to believe that interest group activity is beneficial to democracy, by focussing attention on issues of social importance and ensuring accountability of government¹⁹¹. Nonetheless it is evident that interest groups, such as voluntary conservation organisations, have a mixed impact on public policy; some advocates achieving only limited success after long campaigns, while others gain their primary objective rapidly in favourable circumstances. Accordingly it is often difficult to gauge whether specific decision outcomes truly reflect 'the public interest' or not, since they may be intertwined with other occurrences or only achieve fruition at some future unspecified date¹⁹².

In short, the role of voluntary conservation organisations is markedly affected by what the political system will permit. In theory, Australia is an egalitarian nation where freedom of association and expression is encouraged; in practice many constraints exist which limit the contribution of voluntary community organisations to the process of government and inhibit such interest groups from achieving their aspirations. These constraints are examined in considerable detail in Chapters 4 to 7 inclusive.

2.12 THE ORGANISATION OF INTERESTS

In studying the establishment, activities and interaction dynamics of interest groups, it becomes apparent that formal organisation is ultimately required if the group is to gain recognition within society and legitimacy within the political arena. Groups vary widely in their attitude towards organisation, but patently membership, ideology, resources

191 O'Riordan T., *Environmentalism*, *op. cit.*, pp. 241-256 and pp. 301-302.

192 O'Riordan T., *Environmentalism*, *op. cit.*, pp. 242-250; Petrulla J., *American Environmentalism : Values, Tactics and Priorities*, *op. cit.*, pp. 232-234.

and operational style are important factors. In analysing the operations of any specific interest group, such as the Australian conservation movement, the following elements must be considered: the emergence of groups, recruitment of supporters, leadership style, organisational resources and operational tactics.

2.12.1 The Emergence of Groups

What is the process of activism that leads to the emergence and establishment of a pressure group from a particular constituency? What are the factors that account for the rise of successfully organised groups? Berry cites two theories based upon the research of Truman and Salisbury¹⁹³. Truman believes that interest groups arise from growing social complexity (e.g. the division of labour) and catalytic causes (i.e. some disturbance which alters relativities and relationships with other groups and institutions). This involves an underlying assumption of some form of equilibrium¹⁹⁴. Salisbury views the situation quite differently, focussing on interaction and exchange situations and the organisational failure of existing institutions. Individuals tend to join forces to correct situations and in the hope or expectation of benefit¹⁹⁵. Salisbury believes that the organisation of emergent groups is dependent upon the quality of entrepreneurship and vision of the founders. There must be a solidarity, purpose and incentive, while Truman believes that events, rather than personalities, are the determining factor¹⁹⁶. Neither theory is discrete and it would appear that elements of both perspectives apply in practice.

193 Truman D., *The Governmental Process*, Alfred E. Knopf, New York, 1971; Salisbury R., 'An Exchange Theory of Interest Groups', *Midwest Journal of Political Science*, Vol. 13, February, 1969, pp. 1-32.

194 Berry J., *Lobbying for the People*, *op. cit.*, pp. 19-20.

195 Berry J., *op. cit.*, pp. 36-37.

196 Berry J., *ibid.*, pp. 20-23 and pp. 23-26.

Both commentators are trying to make some distinction between catalytic factors and underlying causes, but the entrepreneurial model is not a complete explanation since it tends to ignore context and constituents, as well as other factors such as the background of members, group size, and the types of issues involved¹⁹⁷. Some of these elements are discussed more thoroughly in Chapter 3, when details of the Australian conservation movement are examined. In carrying out such analyses, professional lobbying must be distinguished from voluntary activism, but it is the latter kind which constitutes the primary focus of attention here. The normal constituency for most interest groups is a narrow segment of the population that is concerned about a particular issue, but even within this sample, motivation appears multi-dimensional¹⁹⁸.

2.12.2 Recruitment

Although community interest groups engage in structured membership campaigns, recruitment is often by chance rather than intent, involving the persuasion of friends, reaction to media publicity, or opposition to some activity or decision that personally offends¹⁹⁹. Voluntary organisations usually develop in a rather desultory and ad-hoc manner, rather than by design, and weak membership commitment must be expected because recruits usually make conscious choices about the time and effort they are prepared to expend relative to normal domestic and vocational roles within society. Lack of dependable manpower is partially compensated for by an experienced few who have the expertise, procedural know-how and battle-scars of front-line experience, plus tremendous commitment to the cause²⁰⁰.

197 Similar factors are discussed by Rosenbaum W., *The Politics of Environmental Concern*, *op. cit.*, Wilson J., *Introduction to Social Movements*, *op. cit.*; also Moe T., *The Organization of Interests*, *op. cit.*

198 Petrulla J., *American Environmentalism : Values, Tactics and Priorities*, *op. cit.*, pp. 97-118.

199 Moe T., *The Organization of Interests*, *op. cit.*, Chapter 2; Israel G., 'Movement Genesis and Direction', in Lauer R., (Ed.), *Social Movements and Social Change*, *op. cit.*, pp. 7-28.

200 Moe T., *The Organization of Interests*, *op. cit.*, Chapter 4; Berry J., *Lobbying for the People*, *op. cit.*, Chapter 3; Stevenson J., and Quinault R., (Eds.), *Popular Protest and Public Order*, Allen and Unwin, London, 1974.

2.12.3 Leadership

All voluntary institutions remain heavily reliant upon leadership, simply because the overall contribution of general membership is fairly unpredictable and because financial resources are usually slender and must be stretched to awkward limits. A substantial workload is often involved, unless the chairman or president is a community identity, offering prestige and little else, in which case great responsibility devolves upon the secretary of the organisation. Group leaders must simultaneously act as managers, spokesmen, researchers and fund raisers, as well as brokers attempting to meld the diverse values and interests of members²⁰¹. The pressures are considerable and few individuals can maintain the momentum for more than a few years. If former leaders do not sever links with the cause, they often become trusted and valued advisers, as well as coalition-builders behind the scenes²⁰².

Interest groups, such as voluntary conservation bodies, are often governed by part-time committees or councils, normally elected on an annual basis, but sometimes by only portion of their constituency because many members fail to register votes. Surprisingly, this does not often lead to coups or takeovers because of the reluctance of many individuals to accept office. Indeed, it is often difficult to fill casual vacancies and not all appointed committee members contribute sustained effort anyway²⁰³. In some instances branch representation is involved, but many community groups are relatively free-form in operation, hence tight central control

201 Zinger C., Dalsemer R., and Margargle H., *Environmental Volunteers in America*, National Centre for Voluntary Action, Washington, D.C. 1973.

202 Nelson H., 'Leadership and Change in an Evolutionary Movement', *Social Forces*, Vol. 49, 1971, pp. 353-371; Lauer R., (Ed.), *Social Movements and Social Change*, op. cit., Chapter 5, pp. 85-97.

203 Moe T., *The Organization of Interests*, op. cit., Chapter 4; Olsen M., *The Logic of Collective Action: Public Goods and the Theory of Groups*, Schocken Books, New York, 1968.

is unlikely to succeed and most groups remain relatively autonomous²⁰⁴. The prospect is that looseness of organisation may dissipate effort, yet the process is democratic in the sense that it is necessary to persuade people that the cause is just before they will participate. Tactics, rather than objectives, is the really contentious issue and here considerable disagreement occurs. This is the aspect where leadership is vital; an ability to placate, persuade and mobilise²⁰⁵.

2.12.4 Organisational Resources

The study of so-called 'third sector' institutions (i.e. community groups outside the public and private sectors) provides some identification of the operational difficulties faced by interest groups such as environmental organisations²⁰⁶. Institutional resources include time, money, effort and information, but many exogenous variables intervene, e.g. levels of taxation or regulations about property transfers or bequests, may act as a disincentive to financial support for voluntary conservation groups. 'Time' is an important commodity to interest groups in at least three ways:

- (i) there is sometimes a need for immediate action if the plans of opponents are to be thwarted, yet reliance upon formal government processes is often time-consuming and cumbersome, hence delay is disadvantageous;
- (ii) by contrast to the above, delay is an expensive commodity to private enterprise, politicians and bureaucrats, hence 'buying time' can prove an advantageous tactic for activists to adopt in specific circumstances; but
- (iii) the human resources of voluntary institutions are limited by the hours that members are willing to contribute on a part-time basis for a particular cause.

204 *Ibid.*, Chapter 3, pp. 36-73.

205 *Ibid.*, Chapter 4, pp. 73-113; Mathews T., 'Australian Pressure Groups' in Mayer H., and Nelson H., (Eds.), *Australian Politics: A Third Reader*, Cheshire, Melbourne, 1973, pp. 465-512.

206 Pennock I., and Chapman J., (Eds.), *Voluntary Associations*, Atherton Press, New York, 1969; Smith C., and Freedman A., *Voluntary Associations : Perspectives on the Literature*, Harvard University Press, Cambridge, Mass., 1972.

It is the latter aspect which constitutes a key constraint upon environmental activism or similar interest group activity²⁰⁷.

Money and effort are discussed in more detail elsewhere in this analysis, but there are certain aspects of organisational manpower which warrant mention. There is always the policy and budgetary issue of whether full-time staff or research support are needed and can be afforded, and if so, whether bureaucratisation is likely to result²⁰⁸. Voluntary labour, unless highly motivated, may be spasmodic in effort, ill-disposed to follow a prescribed line of action and not particularly skilful. Yet if full-time staff are appointed, conflict of opinion may arise between the 'career' officers and the part-time committees and councils which normally formulate policy²⁰⁹. At least three roles for administrative staff are feasible : as advocates, strategists, or co-ordinators, but many group workers become overwhelmed by the basic task of keeping the organisation going and thus merely engage in mundane supportive roles²¹⁰. Resolving such dilemmas is difficult, particularly in areas where value orientations, ideological stances and basic objectives are by no means clear.

Questions arise as to data sources and information utilisation by interest groups, but these aspects are discussed in many ways elsewhere in the thesis. Although no conclusive assessment is possible here, it would appear that information as an organisational resource is not always capably handled by interest groups²¹¹. Ideological

207 See Downs A., 'The Issue-Attention Cycle and the Political Economy of Improving our Environment', in Bain J., and Ilchman F., (Eds.), *Political Economy of Environmental Control*, University of California, Berkeley, 1972, pp. 9-34.

208 Moe T., *The Organization of Interests*, *op. cit.*, Chapter 3.

209 McGill M., and Wooten L., 'Management in the Third Sector', *Public Administration Review*, Vol. XXXV, September-October 1975, pp. 444-455; Berry J., *Lobbying for the People*, *op. cit.*, Chapter 4.

210 Schuck P., 'Public Interest Groups and the Policy Process', *Public Administration Review*, Vol. XXXVII, March-April 1977, pp. 132-140.

211 Berry J., *Lobbying for the People*, *op. cit.*, Chapter VII; Richardson J., and Jordan A., *Governing Under Pressure*, *op. cit.*, Chapter 4.

biases may lead to selective compilation or distortion of information, while the available data is not always comprehensively assessed or deployed to best advantage²¹². This is compensated for, in part, by similar errors by opponents, and also by interest group capacity to generate material in unorthodox ways and from confidential sources. Such evidence cannot always be quoted, but it does provide timing flexibility and tactical advantage.

2.12.5 Tactics

The strategies, tactics and dynamics of interaction in environmental conflict are discussed in considerable detail in Part B of Chapter 3, but some introductory comment may be mentioned here. Due to limited resources, most interest groups have to restrict their tactics to a few carefully selected activities which are assumed to be feasible and effective within the political arena. Three general strategies are usually employed: communication (dialogue), persuasion (coercion or coalition), and influence (mobilisation of support and alliance)²¹³. Carefully orchestrated pressure on key decision-makers is supplemented by symbolic or else substantial social conflict, the aim being to activate sympathetic partisans rather than to persuade the apathetic or ill-informed²¹⁴. In the last resort, public inquiries or legal action may be contemplated as remedies for unacceptable situations. In recent years lobbying and other conventional forms of influence have been supplemented by demonstrations, sit-ins and picketing. Not all of these activities are regarded seriously, histrionics merely affords a better media coverage. Indirect influence also occurs through political

212 O'Riordan T., *Environmentalism, op. cit.*, pp. 254-255; Rivers P., *Politics by Pressure*, Harrap, London, 1974.

213 Zeigler H., 'Interest Groups and Public Policy : A Comparative Revisionist Approach', in Scott R., *Interest Groups and Public Policy, op. cit.*, pp. 1-16.

214 The intention is not to neglect the 'silent majority' but rather to rapidly enlist potential converts, hence community education may be given lower priority than enrolment of new members.

contributions, awards of various kinds for community service, exposure of allied issues and naming of hidden opponents, plus representations delivered through third parties such as learned societies or professional associations²¹⁵.

The principal aim is to influence government, using co-operative strategies (coalitions), the shaping of public opinion or electoral threats as useful weapons likely to persuade politicians²¹⁶. Coalitions have obvious advantages and disadvantages, but are not easily cemented. Confrontation is not always as effective as embarrassment or constituency pressure; the primary aim is always to put officials on the defensive. Access through information is another precept that interest groups should follow, but such groups need to understand and use governmental processes otherwise they may not be heard²¹⁷. An operational difficulty arises in trying to determine what influence has occurred, as against what is perceived or claimed. It is not always possible to entirely prove the cause of change; the political system is dynamic and many factors intrude.

The degree to which an interest group or community organisation is able to associate itself with relevant 'publics' or sections of society is often a crucial factor. Any decisions about ideology or stance involves the selection of certain values or premises compared with others. These values or premises must be made acceptable to the policy-makers before access to decision processes will be achieved²¹⁸.

215 Lindblom C., *The Policy Making Process*, Prentice-Hall, Englewood Cliffs, N.J., 1968; Hawker G., Smith R., and Weller P., *Politics and Policy in Australia*, *op. cit.*

216 Smith R., 'Public Policy and Political Choice : A Review Article', *Australian Journal of Public Administration*, Vol. XXXVI, No. 3, September 1977, pp. 258-273.

217 Wells D., 'Radicalism, Conservatism and Environmentalism', *Politics*, Vol. XIII, No. 2., 1978, pp. 299-306.

218 Wengert N., 'Political and Social Accommodation : The Political Process and Environmental Preservation', *Natural Resources Journal*, Vol. 11, No. 3., pp. 36-44.

Identification of the 'interests' of a group with those of relevant publics may be accomplished in a variety of ways. A group may manipulate public attitudes so that they approximate those of the interest group, or at least do not offend relevant publics likely to remain neutral or indifferent to the group's objectives. On the other hand, the group may adjust its own policy and attitudes so that they seemingly conform to public attitudes. More commonly, the group will attempt to modify some societal values, at the same time as it adjusts its own perspectives²¹⁹.

Peters notes the importance of propaganda in such campaigns. Much time and effort are expended by interest groups in their unending campaigns to persuade the public, as well as to maintain supporters, to woo the potentially sympathetic, sway the neutral and convert the actively hostile²²⁰. Voluntary organisations must use enthusiasm and activism as substitutes for cash resources and manpower, but it is erroneous to assume that broad media coverage or large audiences are guarantees of success; the propaganda may fail for a variety of reasons. The target population may not perceive the message in time, or if received, persuasion may fail. Furthermore, many factors which influence attitudes are external to the group and not subject to its control, no matter how well prepared the campaign may be. Generally, these factors constitute basic elements of the culture in which environmental conflict occurs and act to limit the influence of lobbyists or activists within the political arena. For example, economic conditions, stability of the political regime, values and expectations within the community,

219 Donnison D., 'Ideologies and Policies', *Journal of Social Policy*, Vol. 1, No. 2., 1972, pp. 97-117.

220 Peters B., 'Insiders and Outsiders : The Politics of Pressure Group Influence on Bureaucracy', *Administration in Society*, Vol. 9, No. 2, 1977; Strauss A., *Negotiations, Values, Contexts, Processes and Social Order*, Jolley-Bass, London, 1978.

prestige or otherwise of the interest group and implementation difficulties may all be involved²²¹. The structure of government, party politics, countervailing groups and participation or otherwise in advisory institutions within the policy milieu, all play a part. Reconciling contrasting views is what government is about and individual community groups cannot hope for success in every campaign they mount. Indeed, democracy is all about ensuring that no group becomes too dominant over time.

Sinclair argues that pressure groups are fundamental to the democratic process, especially in a situation where ministerial accountability is negligible, but he believes that a distinction needs to be made between vested interest groups and what he calls the 'non-profit lobby'²²². The latter he considers to be a reaction against the excesses of profit-orientated interests that have too much influence in government. Sinclair argues that the art of lobbying lies in five factors:

- (i) being original in order to capture attention and utilise innovative ideas;
- (ii) being clear and concise in argument, as well as citing supporting evidence;
- (iii) remembering that public opinion is shaped by personal persuasion, collective action and publicity through the media;
- (iv) working within the established political system; and
- (v) maintaining political contact and an effective intelligence service. ²²³

221 Wootton G., *Pressure Politics in Contemporary Britain*, Lexington Books, Lexington, 1978; Ryan M., *The Acceptable Pressure Group*, Saxon House, London, 1978; see also *Decisions and Decision-Makers in the Modern State*, UNESCO, Paris, 1967.

222 Sinclair J., 'Practicalities of Lobbying', paper presented at University of Queensland Seminar, August 1978. Sinclair is one of Australia's leading environmentalists, President of the Fraser Island Defence Organisation and a Vice-President of the Australian Conservation Foundation.

223 Sinclair's views are supported by other environmentalists. See Mosley J.G. 'Evolving Government Policy in Land-Use Conflict Resolution: The Australian Experience', paper presented at ANZAAS Symposium, Perth, August 1973.

He adds one further precept which is sometimes difficult to achieve: adequate financial resources or sponsorship. In practice, slender resources are usually stretched of necessity, with voluntary aid plugging major gaps whenever group survival or the cause is at risk.

PART D : SOME CONCLUSIONS

2.13 ENVIRONMENTALISM AS A SYSTEM OF BELIEFS

Chapter 2 has investigated two dimensions of environmentalism:

- (a) the beliefs and attitudes of environmentalists generally;
and
- (b) some aspects of the manner in which such beliefs might be acted out as interest group activity within the political arena.

In the remainder of the thesis a number of Australian case-studies are presented and analysed in order to illustrate the complexities of the indigenous politics of conservation and to identify the stance and tactics adopted by various protagonists in environmental debate. It is hoped that this will permit some tentative conclusions to be drawn about the effectiveness or otherwise of the Australian conservation movement in achieving reform of resource management practices during the past two decades.

Drawing upon the subject matter of Chapter 2 itself, the principal arguments and conclusions may be summarised as follows:

- (a) Environmentalism should be regarded as a particular system of beliefs about the relationship of man and Nature, generally antipathetical to existing modes of technology and natural resources utilisation, aimed at the retention of ecosystem viability and attention to the quality of life. Although international in context, the environmental movement represents a loose amalgam of widely differing philosophies and values, but within which some common themes are discernible. Environmentalism is essentially a social movement still in evolution,

but some of its adherents act out a political role as interest groups, seeking changes in resource management practices and environmental policies. The organisation, modes of operation and prospective influence of the Australian conservation movement, one element of world-wide environmentalism, will be discussed in detail in the remainder of the thesis.

- (b) Following Petrulla, O'Riordan and other commentators, it may be claimed that environmentalism has become a quiet revolution in challenging many of the basic features of western industrial capitalism: its motives, aspirations, institutions, values and achievements. Although the ideology of environmentalism is neither well substantiated nor cohesively argued, its opponents suffer a similar disability in that many of their justifications appear equally implausible and value-laden. Certainly the general pattern of beliefs within environmentalism is supported by considerable empirical evidence, hence opposition to current modes of technology and resource utilisation is so substantial it leads to action within the political arena. Merely decrying environmentalism will not eradicate it, indeed there is a sustained history of land-ethic activism in various cultures over many centuries. Any attempt to repress their cause would provide proof to conservationists, if proof were needed, of amoral political and corporate power within the modern state; a situation which eco-activists may exploit to the full to gain new adherents.

- (c) As O'Riordan points out, environmentalism appears to involve conviction, i.e. a firm belief that improved modes of existence are feasible; conviction that homo sapiens is capable of recognising dilemmas and taking action; empathy with new methods of consultation, debate and arbitration about resource management practices. In this sense environmentalism is an optimistic, politicising and reformist movement, rather than the negative 'doomsaying' critic of society as it is often portrayed. The central philosophy is focussed on humility about man's role in the universe and attainment of a closer affinity between man and Nature. The conservation movement is certainly not entirely altruistic, but it does acknowledge that homo sapiens is a social animal and unless individuals recognise and support the common good, anarchy will prevail and mankind's survival will be placed at risk.
- (d) In contradiction to this rational perspective, scientific and social science research indicates that individuals tend to perceive the man-Nature relationships in various ways and, propelled by yearnings, attempt to mould or symbolise natural phenomena in order to cope with their universe and come to terms with it. Accordingly, people act out their beliefs and image of the world in quite diverse ways, depending upon optimism or pessimism about homo sapiens and the capacity to manipulate the physical environment. Almost inadvertently, the fantasies involved in this environmental construing can threaten the complex and fragile ecosystems upon which mankind's survival depends. Environmentalists purport to understand this phenomenon and act out their beliefs in ways quite different from those who are prepared to place reliance upon technological exploitation of natural resource endowment.

- (e) Environmentalists are pessimistic about the state of western democratic government. The basic arguments presented are that the emergence of the corporatist state and power of multinational enterprise threatens individual liberty and has led to economic and social exploitation of substantial sections of the community. Conservationists are concerned about what they believe is short-term political expediency relative to the longer-term public interest; they argue that legislators do not always serve the community, only powerful oligarchies; that bureaucratic forces seek power and influence, not service to society generally; and that citizen participation is precluded in a variety of ways. These are powerful indictments, but although the environmentalists can produce some convincing case evidence, which is discussed later in the thesis, their general points cannot be totally proved or disproved. Nevertheless, such arguments go a long way towards explaining why environmentalism is regarded by its adherents as an essential activity within society, i.e. as a powerful civic-minded justification for intervention in community affairs.

2.14 ENVIRONMENTALISM AS POLITICAL CAUSE

Some of the principal conclusions arising from Part C of the Chapter may be stated as follows:

- (a) Environmentalism appears to embrace both social movement and interest group characteristics, since a considerable body of adherents exists favouring particular social values and attempting to educate the public towards specific goals; yet an element within this social grouping plays a more activist role within the political arena. Goal attainment may never be totally achieved, in that social movements suffer ambiguities about objectives or have flexible and sometimes conflicting aims.

- (b) Community organisations, such as the voluntary conservation movement, may be regarded as interest groups if they are actively seeking to influence the distribution of political power or the output of governmental systems in some way. Yet the role of interest groups is markedly influenced by what the political system will permit. In practice, many constraints exist which limit the contribution of voluntary institutions to the process of government and which inhibit such groups from achieving their overall objectives.
- (c) Formal organisation is ultimately required if community groups are to gain recognition within society and legitimacy within the political arena. Groups vary widely in their attitude towards organisation, but methods of recruitment, leadership style, operational procedures and deployment of resources, are important factors in group effectiveness.
- (d) The degree to which an interest group or community organisation is able to associate itself with relevant 'publics' or sections of society is a crucial factor. Communication and propaganda are important weapons in such campaigns, but groups such as voluntary conservation organisations must also establish effective dialogue with government; this involves working through the established political system to persuade and influence.
- (e) Political activism varies amongst conservationists and there appear to be complex motivations arising from both altruistic and selfish considerations as to why conscious intervention in the political arena occurs. Because of the diversity of internal values of the conservation movement and the low cohesion of its adherents, targeting of strategies and tactics is not always precise, but neither are the formal bureaucratic and legislative systems always well prepared to cope with the unorthodox lobbying of various interest groups.

(f) Overall it would appear that there are a number of fundamental questions about environmental conflict which should undergo examination in the remainder of the thesis. Some of these questions are as follows:

- (i) What factors activate conservation controversies?
Is there an identifiable life-cycle of issue emergence, conflict escalation and political resolution of disputes?
- (ii) What values and ideologies do the opponents of environmentalism adduce and why?
- (iii) What tactics are adopted by various protagonists in environmental debate as conservation controversies develop? Are there particular strategies or actions which are demonstrably effective or ineffective?
- (iv) Is the pattern consistent over time in Australia, or as between States? Are there marked divergences depending upon the kind of issue involved (e.g. minerals extraction or forestry production)?
- (v) What additional dimensions (if any) does the nature of Australian federalism impose on environmental politics?
- (vi) What kinds of institutions and practices does the government utilise to handle resource conflict situations? Are the existing mechanisms adequate?
- (vii) Are conservation controversies evidence of political ineptitude, faulty administration, elitist professionalism, communication barriers, unrealistic expectations in the populace, or other unidentified factors?
- (viii) Can specific policy amendments or revised management practices be nominated which might improve decision processes or reduce environmental conflict?
- (ix) Overall, has the Australian conservation movement exercised any influence on resource management practices during the past two decades?

In the remainder of the thesis, attention will be focussed on the structure and operations of the Australian conservation movement in various case situations. Chapter 3 is devoted to a consideration of the way in which environmental issues emerge on the public agenda; some realities of interaction amongst protagonists in the environmental debate; and an outline of the difficulties encountered in inducing reform of public sector operations in Australia.

CHAPTER 3

AUSTRALIAN CONSERVATION CONTROVERSIES:
ISSUES, PARTICIPANTS AND TACTICSPART A : THE AUSTRALIAN CONSERVATION MOVEMENT3.1 AUSTRALIAN CONSERVATION CONTROVERSIES

During the past two decades a number of major conservation controversies has occurred in Australia. Disputes such as those concerning the flooding of Lake Pedder National Park, uranium mining in the Northern Territory, mineral sands extraction on Fraser Island and in the Myall Lakes, prospective agricultural development of the Little Desert in Victoria, oil exploration permits for the Great Barrier Reef, grazing and forestry activities in alpine areas of Victoria and New South Wales and woodchip operations in several States, have generated widespread public concern and debate¹. These conflicts represent a clash of values between interests favouring rapid economic growth in Australia and individuals and groups advocating a particular quality of life, as well as material welfare². Adjudication of such disputes has occupied a considerable amount of government time and effort and has caused some frustration and delay to commercial and industrial interests. The ramifications of these disputes extend beyond Australia to multinational corporations and investment houses in other parts of the world and are closely linked to movements in international commodity markets and various aspects of resources diplomacy³.

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- 1 See Proceedings of Seminar, June 1970, *The Processes and Problems of Seeking Conservation*, Centre for Continuing Education, Australian National University, 1970; Dempsey R., (Ed.), *The Politics of Finding Out : Environmental Problems in Australia*, op. cit; Forward R. (Ed.), *Public Policy in Australia*, Cheshire, Melbourne, 1974; Scott R. (Ed.), *Interest Groups and Public Policy : Case Studies from the Australian States*, op. cit; Wright J., *The Coral Battleground*, op. cit.
 - 2 Powell J., 'Conservation and Exploitation', *BHP Journal*, No. 1, 1980, pp. 16-23.
 - 3 Stevenson G., *Mineral Resources and Australian Federalism*, Monograph No. 17, Centre for Research on Federal Financial Relations, Australian National University, Canberra, 1976.

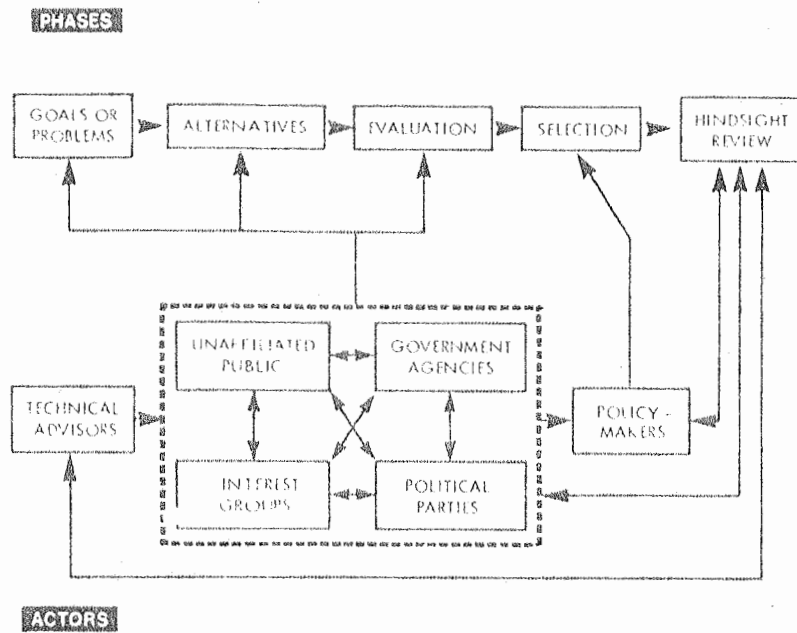
Individually and collectively, Australian resources controversies highlight significant issues about the nature of government decision-making; the nexus between public sector and private sector operations; intergovernmental relations in a federal system; and democratic participation in environmental affairs. They also pose the important question of whether eco-activism yields any benefits to society through the gradually enforced reform of resource management practices⁴. This is the central focus of the thesis, but judgment cannot be reached until detailed evidence is assembled. An essential starting point is to identify the participants in environmental conflict and to record their motivations and mode of operations.

3.2 PROTAGONISTS IN AUSTRALIAN ENVIRONMENTAL DEBATE

Classification and labelling of interest groups within the community is a somewhat speculative enterprise in that complexity of motivations and values may be masked by parcelling individuals and groups into neat categories. Nonetheless, texts about pressure groups and conservation controversies suggest that in any environmental conflict at least five broad groups of 'actors' or participants may be identified:

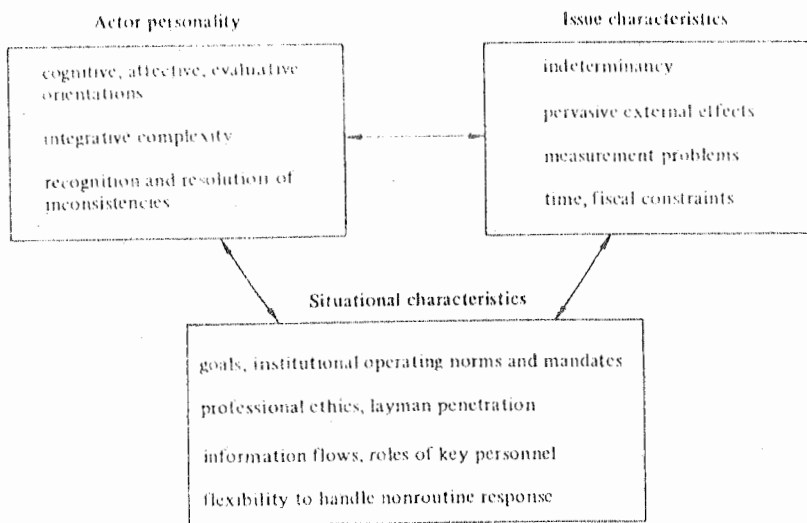
- (i) eco-activists dissatisfied with prevailing modes of environmental policy or natural resources management, acting as catalysts for change;
- (ii) so-called development (i.e. exploitative) interests, principally private corporations anxious to utilise natural resources for financial gain, but also involving some public corporations and statutory authorities;
- (iii) public servants engaged in administrative duties relating to exploitation, regulation or conservation of natural resources, acting under statutes or policy directives of the government in power;

4 Reform may bring costs as well as benefits; this fact is not always recognised by environmentalists



DECISION-MAKING PROCESS IS CONDITIONED BY PERCEPTIONS OF ACTORS AS TO PROBLEMS, SOLUTIONS AND RESPONSIBILITIES AS WELL AS BY INSTITUTIONAL FRAMEWORK

(Source: Sewell W.R.D. and Coppock J.(Eds), *Public Participation in Planning*, Wiley and Sons, London, 1977, p. 9)



The policymaking process.

(Source: O'Riordan T. *Environmentalism*, Pion Limited, London, 1976, p. 242)

DIAGRAM 3 : THE POLICY-MAKING PROCESS AND ROLE OF ACTORS

- (iv) politicians sometimes acting individually as ideologues and power-brokers within their own electorates, sometimes acting collectively in political parties, cabinet or the legislature, presumed responsive to perceived needs or articulated demands from a diversity of interests within the community; and
- (v) the broader community in general, assumed to be indifferent to the arcane details of natural resources management, but capable of being aroused over particular decisions or specific issues, to the point of bringing influence to bear in political and bureaucratic circles⁵.

Here we are primarily concerned with the first category, i.e. environmentalists acting as political activists for specific reforms, but in the empirical evidence presented in Chapters 4 to 7 inclusive, various other participants in conservation conflict will be identified and discussed.

It is obvious that the typology outlined above is rather simplistic. Not all private corporations are solely motivated by greed; patently there are entrepreneurs who possess a social conscience and genuinely believe that capitalism brings material welfare to employees and the public alike⁶. Similarly, the public sector encompasses a variety of roles and attitudes, ranging from pursuit of straight economic development (e.g. mines or forestry departments) to conservation functions such as those undertaken by national park services⁷. This network is further influenced by various exogenous forces such as pseudo-conservation groups, anti-

5 Gregory R., *The Price of Amenity: Five Studies in Conservation and Government*, Macmillan, London, 1971; Kimber R., and Richardson J., (Eds.), *Campaigning for the Environment*, Routledge and Kegan Paul, London, 1974.

6 King R., 'Social Conflict and Environmental Decision-Making', paper presented at Conference of Sociology Association of Australia and New Zealand, La Trobe University, Melbourne, August 1976.

7 Healy R., *Land Use and the States*, John Hopkins Press, Baltimore 1976.

conservation lobbies, professional societies, chambers of commerce and industrial associations, trade unions, environmental political parties, transnational corporations and international organisations, as well as global treaties and conventions relating to resources conservation and development⁸. Any study of environmental conflict is therefore bound to encompass a wide range of participants and complex interaction within the political milieu. Primary amongst the activists is the Australian conservation movement, a diverse collection of voluntary groups aiming at substantial environmental reform.

3.3 LITERATURE COMMENT ON THE AUSTRALIAN CONSERVATION MOVEMENT

In reviewing the available literature on the Australian conservation movement, the initial impression is that commentaries are scant, rather superficial and over-generalised, eco-activists being variously labelled as doomsayers, eco-nuts, neo-communists and worse by their detractors, without any systematic attempt being made to examine relevant ideology, philosophy, organisation or activities⁹. In addition, available research relates mainly to the early 1970s when Australian environmentalism was in the ascendant and countervailing forces were anxious to denigrate its achievements and depict the movement as threatening the established order of society. Subsequent events have seen a lapse of public commitment to conservation, perhaps occasioned by economic recession, and a sustained campaign by mining, forestry and some rural interests against environmental legislation introduced during the mid-1970s¹⁰.

Two of the more perceptive assessments of the Australian conservation movement were those prepared by Peres (1970) and Dempsey and Power (1972)¹¹.

8 Sewell W., and Coppock J., (Eds.), *Public Participation in Planning*, Wiley and Sons, London, 1977, Chapters 9 and 11.

9 This is a subjective judgment based on the author's examination of the literature. Regrettably, no review article on Australian environmentalism has yet appeared in the major political science and administration journals.

10 For detailed discussion see Chapter 7. Note Mosley J.G., 'Protect the Environment Acts', *The National Parks Journal*, Vol. 28, No. 4, June-July 1979, pp. 11-14.

11 Peres L, 'Ecology, Conservation and Politics' in *The Processes and Problems of Seeking Conservation*, *op. cit.*, pp. 2-11; Dempsey R. and Power J., 'The Politics of the Environment' in Rapaport A., (Ed.), *Australia as Human Setting*, Angus and Robertson, Sydney, 1972.

Both statements were concerned more with the politics of conservation than with environmental beliefs or organisation, but may be regarded as extremely pragmatic and penetrative analyses which have stood the test of time. Peres expressed the view that Australian conservationists appeared unaware of many realities of the political system and on that account were likely to experience failures in lobbying or political influence¹². Peres pointed out that environmentalists were merely one of a number of interest groups within the community and seemed reluctant to deal in the bargaining, compromise, trade-offs and expediency that are the very substance of politics. The conservationists were always caught in the dilemma of whether to adhere to principles or sacrifice some ideals in the interests of pragmatic political achievement, thus splits within the environmental movement could be exploited by opponents¹³. Peres believed that Australian eco-activists well recognised one central truth, that the bureaucratic system should be tackled as well as the legislature; but in a war of attrition and expertise, the disparities of viewpoint and commitment within the environmental movement were likely to prove its Achilles heel. In short, Peres's assessment was pessimistic, but did not discount the prospect of limited success, provided ecological 'principles' were in some measure abandoned in favour of more pragmatic tactics.

Dempsey and Power echoed Peres in some degree, arguing that three dimensions of environmental politics were significant:

- (i) the money, manpower and expertise potentially available to the environmental cause;
- (ii) the degree of difficulty in mobilising these resources behind a feasible set of demands upon government; and
- (iii) the degree of difficulty involved in persuading governments to accede to these demands¹⁴.

12 Peres L., *op. cit.*, pp. 3-6.

13 *Ibid*, pp. 6-9.

14 *Ibid*, pp. 252-253.

These dimensions appear relatively undifferentiated in situations concerning isolated resources which nobody specifically demands, but divergences of opinion occur within the environmental movement when complex issues arise, such as the relative merits of particular areas of scenery, the management of public lands or the export of strategic natural resources, including uranium¹⁵.

Dempsey and Power considered that Australian environmentalism echoed the American quest for a sentimental consensus in public discourse, but there seemed little new in local content; the stated objectives were often simplistic and based upon confused argument, even embracing a certain smugness about its ramshackle structure¹⁶. Dempsey and Power agreed with Peres about the lack of sophisticated political mobilisation and the merely pious hope that a newly-enlightened citizenry would press governments to enforce consensual demands against a few evil or misguided environmental wrong-doers. Perhaps Dempsey and Power were wrong in their claims of naivety, since stubbornness as well as idealism is sometimes the salvation of interest groups which continue to press their claims without fear or hesitation¹⁷.

Dempsey and Power noted that the conservationists' enormous list of demands were unlikely to be achieved; rather that political tokenism in environmental remedies would prevail. The longer the list of demands, the easier it was for politicians to find selective scapegoats or delay positive action¹⁸. This viewpoint is shared by Hays, who states that the complexities and ambiguities of scientific evidence, coupled with uncertainty about environmental objectives, renders it extremely difficult for the conservationists to persuade a largely unknowledgeable and

15 It is not only conservationists who have differences of opinion; infighting is common in bureaucratic agencies and political parties. See Anderson J., *Public Policy-Making*, Holt, Rhinehart and Winston, New York, 1979, especially Chapters 2 and 3.

16 Dempsey R., and Power J., *op. cit.*, pp. 251-252.

17 This is perhaps claiming that 'ignorance is bliss', i.e. that naivety and optimism may induce organisational survival in situations where the knowledgeable might be tempted to surrender to circumstance.

18 Hay C., 'Public Attitudes and the Environment Movement', paper presented at Annual Conference of Sociological Association of Australia and New Zealand, La Trobe University, Melbourne, August 1976.

apathetic public¹⁹.

Dempsey and Power believed that in most instances the eco-activists would lose, simply because most Australians were materialistic and growth-orientated. There may be special circumstances where social uncertainty would permit environmentalists to gain a decisive influence, but such success would always generate countervailing pressure. Most environmentalists appeared conservative but idealistic, concerned with issues remote from their domestic domain, but support for the cause was part-time and often luke-warm. Issues might become defused by the passage of time or token administrative action, while the underlying social maladies remained untreated and ignored. Dempsey and Power recognised that environmental activism was likely to persist and could even intensify; legislators, public servants and private enterprise would have to accept this fact and come to terms with it²⁰.

Other commentators have tended to take an even harsher view of the Australian conservation movement, either depicting it as an urban-based middle-class interest group out to protect privilege in the form of defence of favoured scenic areas; or as an unwitting supporter of capitalist notions of class and power, by ascribing value to the natural world rather than to human labour which is assumed to be the source of all material wellbeing²¹. Beresford, for example, writing of 'doomsayers and eco-nuts', argues that resource depletion is less important than the redistribution of wealth within society and claims that middle-class ecology movements merely echo capitalism, hence only radical alternatives such as socialism can really transform environmental quality²². No

19 Contrast the comments by Lane R., 'The Decline of Politics and Ideology in a Knowledgeable Society', *American Sociological Review*, Vol. 31, No. 5, October 1966, pp. 649-662.

20 Dempsey R., and Power J., *op. cit.*, pp. 261-262.

21 This is the neo-Marxist perspective, but does not conform to the views of all neo-Marxists. See Special Issue on Uneven Regional Development, *The Review of Radical Political Economics*, Vol. 10, No. 3, Fall 1978, pp. 1-135.

22 Beresford M., 'Doomsayers and Eco-nuts : A Critique of the Ecology Movement', *Politics*, Vol. XXI, No. 1, May 1977, pp. 98-106.

evidence is provided about the radical alternative, moreover she conveniently ignores all the environmental problems evident in socialist economies²³.

Beresford and Wells both label the Australian environmental movement as 'bourgeois' and 'conservative', and dismiss its chances of reshaping society, but Kellow argues that one of the prospective solutions offered by conservationists, namely the so-called 'steady-state economy' or 'sustainable society' is not inconsistent with socialist ideals²⁴. It is very doubtful whether environmentalists view their struggles or organisations in these ideological terms, hence the somewhat shallow treatment of the Australian conservation movement by Wells, Beresford and Kellow does little to explain why and how the environmental movement operates as it does²⁵.

Even conservative commentators such as Samuel or Sandford Clark, tend to depict the environmentalists as somehow freakish, lying outside the normal run of social values and unduly sentimental about natural objects, while unrealistic about the material world²⁶. There is little empirical evidence to justify such generalisations, which are presumably derived from superficial appraisal of the more esoteric writings of the environmental philosophers, rather than of the broader spectrum of the movement itself. Samuel may be on safer ground when he notes the inconsistency of environmentalists decrying economic growth, while living a highly technological lifestyle; but even this assessment ignores the many individuals who do make conscious choices about options and lifestyles, so as to minimise or reduce environmental impacts²⁷. Such

23 See various articles in British and European planning journals; also Pallot J., and Shaw D., *Planning in the Soviet Union*, Croom Helm, London, 1981.

24 Kellow A., 'A Note on the Ideological Possibilities of Environmentalism', *Politics*, Vol. XV, No. 1, May 1980, pp. 101-104.

25 Hays C., *op. cit.*, at least attempts to measure public attitudes to activism and the environment. Note also Cotgrove S., 'Environmentalism and Utopia', *The Sociological Review*, Vol. 24, No. 1, 1976, pp. 23-42.

26 Samuel P., 'Are the Progressives in Fact Reactionaries?' *The Bulletin*, (weekly), Sydney, 13 March 1971; Clark S.D., 'Conservation and Government: Towards an Understanding of Roles', *Search*, Vol. 5, No. 6, June 1974, pp. 241-249.

27 Martin B., *Changing the Cogs*, Friends of the Earth, Canberra, 1979.

complexities escape the notice of many political scientists, politicians and media writers who deal with environmentalism in broad brushstrokes, without detailed empirical analysis.

Interest group analysts, such as Mathews, Condon and Harmon, are equally superficial in their appraisal of environmentalism relative to other power blocs within the community, such as trade unions, business federations, professional groups and charitable organisations²⁸. The tendency is to equate influence with numbers, but this may be erroneous since ideas are as influential as membership²⁹. Burton, for example, is more optimistic about conservation prospects, arguing that some of the notions extant within environmentalism have now become lodged in the Australian culture and that discernible waves of advance in environmental thought and action have occurred and are prospectively likely in the future. Frugality in the use of resources, for example, may well become an acceptable social ethic³⁰. Petrulla and many overseas authors make a point not well recorded in the Australian literature: environmentalism is dynamic, ideas and circumstances are changing and many alternative paths of social consciousness are feasible³¹.

As this brief review demonstrates, very little has yet been written in Australia about the detailed attitudes, beliefs or activity patterns of conservation organisations or their leadership or members. Not only

28 Mathews T., 'Pressure Groups in Australia', in Mayer H., and Nelson H., (Eds.) *Australian Politics : A Third Reader*, op. cit., pp. 465-510; Harmon G., 'Pressure Groups and the Australian Political System' in Summers J., et. al., *Government, Politics and Power in Australia*, op. cit., pp. 298-308; Condon C., 'Experts, Decision-Making and Pressure Groups, in Lucy R., *The Pieces of Politics*, Macmillan, Melbourne, 1975, pp. 250-258.

29 This is true only if the ideas can be given political projection and recognition. See McPherson C., 'Technical Change and Political Decision,' in *Decisions and Decision-Makers in the Modern State*, UNESCO, Paris, 1967.

30 Burton J.R., 'The Waves of Conservation', in *University of New England News*, May 1979; Burton J.R., 'Conservation Issues of the Last Decade', in *BHP Journal*, No. 1, 1980, pp. 40-47.

31 Cocks D., and McConnell G., 'Environment and Conservation Issues of the Eighties', *BHP Journal*, No. 1, 1980, pp. 48-52.

do we lack formal surveys of community environmental values, but individual activists have been remarkably reticent about recording their personal credos or organisational objectives³². One exception is the Australian Conservation Foundation (ACF) which has published not only its principal aims and policies, but also some lessons of experience³³. Other groups appear too involved in activism to spare time to record events, so information about their activities must be gleaned from interviews with members and the correspondence files of the organisation. In general, we are not yet in a position to summarise characteristics of the Australian conservation movement in fine detail, but it is possible to outline some basic elements of the organisation and operation of the voluntary groups³⁴.

3.4 ROLE AND STRUCTURE OF THE AUSTRALIAN CONSERVATION MOVEMENT

3.4.1 Origins of the Movement

Powell's definitive study of Australian environmental management from 1788 to 1914 indicates that the first committed conservationists, apart from the indigenous aboriginal people, were professional engineers and foresters, not necessarily imbued with an affinity for Nature so much as concerned about prospective scarcities in natural resources deemed essential for economic exploitation³⁵. Later, naturalists and bushwalkers became advocates for wilderness retention, in an era when near-urban national parks were viewed largely in terms of man-made amenities for family recreation³⁶. Behind this veneer of formal conservation policy, a variety of artists and poets were creating a mood

32 This is perhaps more a result of workload than a conscious policy decision.

33 See *Annual Reports* of ACF for discussion of aims and policies. Major policy statements of ACF Council are separately published and available to the public on request.

34 At least one academic thesis also provides discussion. See Figgis P., *The Politics of Wilderness Conservation in Australia : The Movement and the Issue*, honours thesis in Government, University of Sydney, 1979.

35 Powell J., *op. cit.*, Chapters 5 and 6.

36 Mosley J.G., 'Towards a History of Conservation in Australia', in Rapaport A., (Ed.), *Australia as Human Setting*, *op. cit.*, pp. 136-156.

of affinity with landscape, which ultimately became the cultural values of individuals and groups pledged to preserve scenic amenity and indigenous flora and fauna from development pressures³⁷.

Powell's study does not extend beyond 1914, but other authors note the upsurge of Australian environmentalism in the period following the Second World War, as national consciousness developed and the unique qualities of the Australian landscape and biota became more widely disseminated on the nation's television screens³⁸. The assault on urban amenity of the 1960s and the attrition of wilderness during the 1970s were the catalysts which produced a substantial and committed conservation movement in Australia³⁹. The series of environmental conflicts over the past two decades have provided the legends and experience which all social movements need, as stimuli for mobilisation and commitment to a collective cause.

3.4.2 Structure and Membership

A detailed examination of the Australian conservation movement reveals the complexity of its structure and operations. The Australian Conservation Foundation's Greenbook (August 1978) lists some 1158 organisations within the voluntary sector, but it is evident that broad classification is possible, based upon the following characteristics:⁴⁰

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- 37 Seddon G., and Davis M., (Eds), *Man and Landscape in Australia : Towards an Ecological Vision*, Australian National Commission for UNESCO, Australian Government Publishing Service, Canberra, 1976.
 - 38 Note various publications of the Australian Broadcasting Commission based upon popular nature documentary film series.
 - 39 Mosley J.G., 'Towards a History of Conservation in Australia', *op. cit.*, pp. 152-154.
 - 40 *The Greenbook : A Directory of Non-Government Environmental Groups in Australia*, Australian Conservation Foundation, Melbourne, August 1978.

- (i) whether the organisations are primarily urban-issue orientated, or more interested in wilderness preservation and nature conservation (here we are concerned only with the latter categories);
- (ii) whether locally based, or regionally or nationally structured;
- (iii) whether actively pursuing a number of issues, or concentrating upon one problem, or merely acting as service or research support for other groups; and
- (iv) whether deriving membership from a wide spectrum of the community or existing merely as an offshoot of another institution (e.g. organised within a university)⁴¹.

Based upon the above factors, at least five kinds of conservation organisations may be identified:

- (i) national 'umbrella' organisations, such as the Australian Conservation Foundation (ACF), or the Australian National Parks Council (ANPC), which involve representation of membership drawn from all States and Territories and which pursue a very wide range of activities regionally, nationally or internationally⁴²;
- (ii) state co-ordinating bodies, such as the Conservation Council of New South Wales (CCNSW), which consists of delegates drawn from a large number of major environmental groups within the State, but which acts in a collectivised manner to co-ordinate activities, pool information, devise integrated strategies or campaigns and lobby politicians and bureaucrats⁴³;

41 This classification is intuitive and not derived from any text, although equivalent subdivision is apparent in some North American studies, e.g. Rosenbaum W., *The Politics of Environmental Concern*, *op. cit.*, pp. 56-92.

42 The ACF *Greenbook* lists 64 national organisations of scientific, professional and nature conservation orientation, but probably only eight could be regarded as major voluntary conservation groups.

43 Tasmania is the only State which does not possess a co-ordinating council. This may reflect the tight regional loyalties in the island and the close co-operation which has evolved between the various conservation groups.

- (iii) specific issue bodies, pledged to a particular cause which is their primary focus, although they may form temporary coalitions with other groups. Many examples may be cited, such as the Colong Committee, Fraser Island Defenders Organisation (FIDO), the Tasmanian Wilderness Society and the Native Forests Action Council (NFAC) of Western Australia. These groups are sometimes expert within their own field of endeavour and fully able to test the technical appraisals of specialised bureaucratic authorities⁴⁴;
- (iv) environment centres, such as the Total Environment Centre in Sydney, or CASERAC (Canberra and South-East Region Environment Centre) in the Australian Capital Territory. These organisations not only act as service units for the printing and distribution of environmental information and as a physical base for diverse community groups, but also as a library resource and educational service for the public, by answering queries, promoting contacts and informing society about environmental issues⁴⁵; and
- (v) international organisations, such as Friends of the Earth (FOE) or Greenpeace, originating in other countries but now established as loosely coupled, relatively autonomous groups in Australia⁴⁶.

44 Specific issue groups sometimes last for only a short time, due to issues being resolved or being absorbed into larger causes. There are some organisations, however, with many years service which have resolutely pursued their objectives in the face of ongoing difficulties (e.g. the Cooloola Committee founded in 1963).

45 The concept of Environment Centres dates from the Whitlam Government's programmes of community education.

46 Some of these groups are regarded as 'radical' but it is probably hard-headed activism rather than ideology which is involved.

The above list is by no means exhaustive and many other forms, such as quasi-environmental professional and voluntary institutions, could be listed.⁴⁷

As Figgis points out, the ACF directory does not provide a complete listing; membership numbers are not given and the categorisation of groups is somewhat haphazard. Judging by titles, only a small proportion of the organisations listed claim to have wilderness protection as their primary concern. These include the Australian Conservation Foundation, three branches of the Tasmanian Wilderness Society, the New South Wales based Colong Committee, two smaller NSW groups (Ausventure Wilderness Association and the Wilderness Protection Committee), the Scenic Rim Association in Queensland and the Nature Conservation Society of South Australia Inc.⁴⁸ Yet this assessment may be totally misleading. There are many other nature conservation organisations vitally interested in wilderness preservation; it is merely that they subsume this function within the broader rubric of environmental concern. Bushwalking clubs and the various national park associations are particularly interested in a variety of issues and the physical aspects of the area under dispute will markedly determine which groups will become active in a specific conservation campaign. Thus the threatened mining of limestone in the Colong Caves region attracted the active campaigning of the speleological societies; the long battle for the Kosciusko National Park involved societies interested in limnology and threats to mountain areas may attract activists as diverse as rockclimbers and canoeists⁴⁹. It is this unpredictable tendency to 'buy in' which makes bureaucrats and politicians nervous.

47 Professional associations vary widely in their attitudes to environmental politics. Many pursue the myth of value-free 'scientific' analysis.

48 Figgis P., *The Politics of Wilderness Conservation in Australia: The Movement and the Issue*, honours thesis in Government, University of Sydney, 1979.

49 *Ibid.*, pp. 27-28.

Given the above complexity, it is obviously difficult to gauge the overall numbers or effectiveness of membership of the Australian conservation movement. All voluntary associations expand and contract over the years, or are replaced by new institutions, dependent upon the kind of issues, style and charisma of leadership, the perceived importance of the cause, and more prosaic factors such as whether members actually remember to renew their subscriptions or find time for committed participation⁵⁰. It is quite certain that a number of individuals engage in multiple membership, varying according to where personal interest lies and additional financial support is needed; but it is equally true that the attrition rate in membership turnover is high, due to domestic priorities or other leisure options⁵¹. The total scale and effectiveness of the conservation movement cannot be gauged by formal membership alone; there are always covert sympathisers within the bureaucracy and private enterprise, who provide donations and discreet support in a variety of ways, but do not wish their allegiance to be openly acknowledged⁵². Activism can also generate a short-term explosion in membership for an emotional cause (e.g. saving the rainforests, or Operation Jonah, aimed at the conservation of whales), but this support tends to drift away until a new crisis emerges, when individuals may rally to the cause once again⁵³.

Commentators such as Milbrath, Petrulla and Berry argue that hidden community support is often far greater than either the conservationists or their opponents realise and should be mobilised to promote the environmental cause⁵⁴. This research was carried out in North America and no equivalent

50 Cobb R., and Elder C., *Participation in American Politics : The Dynamics of Agenda Building*, John Hopkins Press, Baltimore, 1972.

51 Potter A., *Organised Groups in British National Politics*, Faber and Faber, London, 1961, p. 130. Interviews conducted by the author of the thesis confirm multiple membership in Australian groups.

52 Potter A., *Ibid*, p. 128. See also Blondel J., *Voters, Parties and Leaders*, Penguin Books, Harmondsworth, 1969, p. 168.

53 Comment by staff of the Australian Conservation Foundation, based on their experience.

54 Milbrath L., 'Policy Relevant Quality of Life Research', *Annals of the American Academy of Political Science and Sociology*, July 1979, pp. 32-46; Petrulla J., *op. cit.*, pp. 43-45 and Berry J., *op. cit.*, pp. 186-195.

studies have yet been published in Australia, but some public opinion polls and research papers tend to validate claims of widespread public support for nature conservation objectives⁵⁵. It would be misleading however, to claim that all organisations listed in the ACF directory, or their members, are primarily devoted to nature conservation or wilderness retention. The ACF listing is not comprehensive, but it does include a variety of anti-nuclear groups, resident action councils, anti-pollution activists and outdoor recreation groups such as cyclists and canoeists. As previously noted, many of these citizens are sympathetic to the conservation cause and mobilise quickly if national heritage features, such as the Great Barrier Reef or South-West Tasmania, are under threat⁵⁶.

One measure of the strength and resilience of the Australian conservation movement might be to chart its growth and variety of organisations over the past decade, as well as a stability index of membership (see Table 1)⁵⁷. It will be seen that the regional spread and diversity of institutions is as significant as their total number. Almost all voluntary conservation groups report peak membership about 1974, when environmental consciousness in the Australian community appeared at its zenith, followed by some loss of support in the mid-1970s as an anti-conservation backlash took effect, but consolidation and some growth during the period 1978-81⁵⁸. This trend may not last, given an economic climate in which employment issues may be accorded higher priority than environmental concern, but there is some evidence that Australians are becoming more perceptive about their natural heritage and are reacting accordingly⁵⁹.

55 Williams G., 'The Future Politicians Refuse to See', *Sydney Morning Herald*, Saturday 22 November 1980, p. 13, reporting the results of a survey by G. Boniecki of Australian attitudes towards the environment.

56 Figgis P., *op. cit.*, pp. 29-30. Note also reports on environmental campaigns in the ACF *Newsletter* in recent years.

57 These figures are derived from a variety of sources, principally annual reports, but also involve some internal audits of membership change over time.

58 Information elicited during interviews with group leaders. The current economic recession and rising membership fees have induced membership turnover, but not membership loss.

59 Note the ready sale of books on national heritage and nature conservation,

TABLE 1
STRUCTURE OF THE AUSTRALIAN CONSERVATION MOVEMENT
AUGUST 1978

Jurisdiction	Number of Environmental Groups	Approximate Number Nature Conservation Organisations
International	20	7
Australia	66	8
Queensland	142	42
New South Wales	360	78
Victoria	317	65
Tasmania	64	25
South Australia	74	14
Western Australia	72	19
Northern Territory	10	5
Australian Capital Territory	31	9
Norfolk Island	2	2
Total:	1158	279

Source: Australian Conservation Foundation's Greenbook

Note:

- (a) ACF admits incomplete listing.
- (b) Estimate of nature conservation groups based solely on title and author's knowledge of organisations. Figures exclude learned societies, urban-issue orientated groups, bushwalking clubs and other categories, many of which have nature conservation affiliations.

TABLE 2
SAMPLE MEMBERSHIP STATISTICS

1. Australian Conservation Foundation

Totals		Composition, January 1981	
June 1973	6569	Queensland	714
June 1976	8364	New South Wales	1865
June 1977	7409	Victoria	3013
June 1978	6688	Tasmania	243
June 1979	8002	South Australia	620
June 1980	8365	Western Australia	434
		Australian Capital Territory	415
January 1981	9128	Other	120

(Source: Annual Reports and Council Minutes)

2. Tasmanian Conservation Trust Inc.

Totals		Composition, 1977-78	
June 1970	279	Age greater than 50	20%
June 1973	519	Age 25 to 50	50%
June 1976	476	Age below 25	30%
June 1978	430		
June 1981	460		

Membership classification by occupation 1977-78:

Professional	20%
Academic	20%
Skilled	25%
Unskilled	28%
Pensioner	7%

(Source: Annual Reports and Council Minutes)

3. Tasmanian Environment Groups, June 1978

Southern	29
Northern	9
North-west	16
Other	4
Total:	<u>58</u>

(Source: Address List)

4. Nature Conservation Council of New South Wales

1980 Executive Members:

Appointed representatives (member bodies)	9
Elected Individuals	7
Co-opted Members	4
Total:	<u>20</u>

(Source: Address List)

Whatever the current membership of the Australian conservation movement (a cautious estimate is 150,000 persons minimum), the potential support is increasing. The number of visitors and duration of attendance in Australia's national parks and scenic reserves is growing rapidly and conforms to world patterns of exponential growth of demand for wilderness experience⁶⁰. This has important political implications, provided the voluntary conservation groups can recruit adherents and cultivate public support from the expanding number and variety of outdoor recreationalists. Australia has not yet experienced the European and North American phenomenon of a switch in school sport activities from formal team games, such as football, towards hardy adventure sports such as bushwalking, canoeing, rock climbing and skiing, but the takeoff point for outdoor recreation is now clearly discernible⁶¹. Once this transition occurs, then conservation activism amongst younger sections of the community is likely to increase dramatically. Surveys of conservation groups indicate that membership in the 30-plus age group is relatively conservative in outlook and tends to favour negotiated settlement with opponents, whereas younger individuals tend to be more idealistic, hardline and militant⁶². If youth recruitment occurs, conservation conflict may escalate in Australia.

There is an additional reason why a decline in token environmental consciousness within the general community may not be matched by a decline in environmental activism, but rather why an escalation in the latter may occur. Although the majority of members of environmental organisations may be classified as middle class 'white collar' individuals, two new streams of recruits are identifiable and may have an important impact on the

60 Note the annual reports of national park authorities. For discussion of growing demand for wilderness see Mosley J.G., (Ed.), *Australia's Wilderness*, Australian Conservation Foundation, Melbourne, 1978.

61 Mercer D., *Leisure and Recreation in Australia*, Sorrett Publishing Pty.Ltd., Malvern, Victoria, 1977; Mercer D., (Ed.), *Outdoor Recreation: Australian Perspectives*, Sorrett Publishing Pty.Ltd., Malvern, Vic. 1981.

62 Gilg A., *Countryside Planning*, Methuen and Co., London, 1978, Ch. 5. Note also Berry J., *Lobbying for the People*, *op. cit.*, pp. 31-36.

63 movement . Despite the apathy, indeed hostility, of most union leaders to environmentalism, a small but steady stream of blue-collar recruits is being gained from industrial workers and primary industry employees anxious about environmental hazards in work situations and acutely aware of the structural impacts of capitalism and technology on employment prospects⁶⁴. Their commitment is unwittingly ideological in that they no longer trust their employers' claims about production processes or continuity of employment, and view themselves merely as an exploited factor of production.

They tend to be scornful of environmental rhetoric, but are anxious to achieve pragmatic reforms in employment and welfare and view the environmental movement as correct in questioning the motives of the capitalist system. Their thinking has been influenced by conservation groups such as Environmentalists for Full Employment (EFFE) and Friends of the Earth (FOE) whose well researched statements on nuclear hazards, chemical pollution, industrial safety and exploitation by multinational corporations have found a receptive audience⁶⁵.

At the same time as this leavening of blue-collar recruitment has occurred, additional membership has been gained from university graduates and mature-age citizens facing unemployment during the current economic crisis. Apart from notions of useful community service in a period when time is freely available, they are motivated by feelings of hostility towards the present economic system and are actively seeking coalition with interest groups dedicated to social reform⁶⁶. Thus at the very time

63 The existence of these new adherents is not recorded in the literature. Information was obtained by interview with conservation group leaders in various States.

64 Note comment in newsletters and publications of EFFE (Environmentalists for Full Employment).

65 See, for example, *Jobs and Energy*, Environmentalists for Full Employment, Washington, D.C. 1977 (Released by EFFE, Australia, Melbourne 1978). Note also Willetts P., (Ed.), *Pressure Groups in the Global System*, Frances Pinter, London, 1981.

66 Information from a survey of research associates of environmental groups. ACF and the Total Environment Centre (Sydney) confirm this data.

when opponents of conservation believe support for environmentalism to be faltering, more militant and dedicated cadres have joined the ranks of the environmental movement. Well educated and articulate, willing to work as research assistants and lobbyists for minimal remuneration, the probable leaders of the Australian conservation movement during the final decades of the twentieth century are now in training.⁶⁷ Some of these individuals will be recruited into the workforce if the economic crisis recedes, but sufficient numbers will be retained to ensure that activism continues. Like the community from which it is drawn, the Australian conservation movement consists of people of various ages, diverse political persuasions and different personalities. In this blend of experience and idealism lies the strength of the movement.

3.4.3 Organisational Resources

As Figgis has pointed out, only the principal conservation organisations can afford salaried directors and part-time administrative support, the majority must get by with purely voluntary effort carried out in members' spare time⁶⁸. During a protracted campaign this may involve thousands of manhours of labour in obtaining information, preparing submissions, issuing propaganda material, answering personal queries, lobbying parliamentarians and bureaucrats, and dealing with the media. Lack of salaried support is partially compensated for by the enthusiasm of core members, and the skills of panels of assistants selected from membership lists. Painter comments on the 'army of willing volunteer professionals' aligned to the movement; this may be an exaggeration, but there is diversity of talent, including photographers, artists and other creative individuals whose skills can be used to good advantage⁶⁹.

67 Not 'training' in the formal sense. Rather exposure to the ideas of environmental authors and leading conservationists in Australia.

68 Figgis P., *op. cit.*, pp. 39-40; see also Wendt N., *Who has Power in Australia: An Examination of the Public's Ability to Participate in Government Decisions*, honours thesis in Sociology, University of Sydney, 1979.

69 Figgis P., *op. cit.*, pp. 31-35; Painter M., 'New Forces in State Politics', *Current Affairs Bulletin*, Sydney, January 1977, p. 24.

In putting together a committee to prepare a submission about the Kosciusko National Park early in 1980, the Total Environment Centre in Sydney was able to choose thirty individuals from a register of over two hundred volunteers, many with expertise in biology, ecology, zoology, wildlife management, public administration and recreational management, as well as experienced journalists and photographers⁷⁰. Of the thirty individuals selected, twenty five possessed tertiary qualifications. Quality of membership, according to Potter, is an important variable in group strength, but the capacity to mobilise quickly is equally crucial at times. The Australian Conservation Foundation was able to generate \$55,000 in donations in the opening weeks of its rainforest campaign, almost before serious fund raising began. Conservation groups were inundated with cash and voluntary assistance when the 'Save the Whales' campaign was being conducted; while the Tasmanian Wilderness Society was able to muster over 700 part-time volunteers within a few weeks when the Franklin River controversy had reached the stage of Cabinet decision⁷¹.

Against this optimistic perspective must be set some countervailing factors. The conservation movement often experiences difficulty in sustaining campaigns when conflict becomes protracted. Many people make a contribution then drift away. Occasional schisms may affect conservation groups, either through personality clashes or ideological differences, while some skills remain in short supply, e.g. lawyers and economists⁷². Individualism is another factor, many environmentalists cherish independence and are reluctant to become involved with large or formalised groups. Regionally based branches also demand considerable autonomy from central headquarters.

70 Figgis P., *op. cit.*, pp. 31-32.

71 Potter A., *op. cit.*, p. 133; Figgis P., *Ibid*, pp. 31-32. The ACF *Newsletter* also records the considerable input of volunteers when major conservation issues arise.

72 The shortage of lawyers and economists may reflect their pragmatic realisation that little credit is gained by joining causes where the prospects of achieving success are slight. It may also reflect the straight market demand for their services.

In general, the principal problem faced by the conservation movement is to maintain cohesion and momentum against its more formally established opponents. Chambers of commerce and industry groups may lack large membership, but they are assured of financial resources, the advice of consultants and an acknowledged place in society⁷³. By contrast, the conservation movement offers amateurism and hard work, but its idealism also fosters great persistence. The twenty-nine environment centres within Australia are the physical nuclei wherein groups meet to exchange ideas, trade information, collectively produce newsletters and publications, and educate the public⁷⁴. They are a vital organisational means of integration, but public meetings and special symposia also foster ways of co-operation and communication. In recent years there has been a discernible trend towards coalition-building and task-sharing as the movement shifts towards a more professional approach in pursuing its cause⁷⁵.

In Chapter 2 it was argued that the main organisational resources include time, information, funds and expertise. Various dimensions of time, data and manpower are examined in the case-studies which follow, but some comment must be made about the funding situation. Henning observes that most environmental pressure groups are 'citizen-orientated non-profit organisations with meagre budgets based on volunteer contributions.'⁷⁶ This is a fairly accurate description of most Australian conservation societies, but apart from membership fees, revenue is generated by means

73 Figgis refers to such groups as 'sectional interests' (Figgis P., *op. cit.*, p. 30). Economic power brings them recognition and their leadership enjoys good relations with politicians.

74 The Environment Centres endure ongoing financial crisis, relying upon their capacity to deliver information to the public, rather than impressive shopfronts. Most are located in low-rental areas at the fringe of urban central business districts.

75 Initially there was considerable disagreement about tactics among groups. Most environmental organisations now recognise the necessity of co-operative effort, if scarce resources are to be effectively used.

76 Henning D., *Environmental Policy and Administration*, American Elsevier, New York, 1974, p. 25.

of donations and bequests, sale of publications and social activities⁷⁷. Membership fees now barely cover the cost of producing and distributing newsletters, hence it is necessary to finance campaigns and publicity from other sources. Most of the major conservation bodies rely on individual donations and on the sale of publications, but some also receive limited grants-in-aid from government⁷⁸. There are mixed feelings about government assistance which currently totals \$400,000 per annum at the Commonwealth level; some groups claiming that grants are a crude attempt to buy political support, while others view financial aid as essential to ensure viability and implying some kind of recognition within the political system⁷⁹.

Lissner's study of the politics of altruism, although mainly focussing on voluntary assistance in third world nations, throws much light on the dilemma of acceptance of grants as against freedom of operation of community institutions⁸⁰. Lissner concludes that '... he who pays the piper calls the tune' in some degree, but argues that moral principles, operational procedures, and the need for governments 'to be seen to be doing good' provides some room for manoeuvre, constituting tactics which recipients of grants may employ if pressure is applied to accede to government wishes at a political level. Lissner's study is perceptive and sophisticated, incorporating Molin's hypothesis that voluntary groups try to achieve legitimacy by being seen to have gained the confidence of government and by amassing resources to 'do good'.⁸¹ Anthony Downs claims that politicians also need to be seen to be 'doing good' and therefore will support minor

77 Note comments in the annual reports of conservation organisations and the increasing number of publications for sale.

78 Report of the House of Representatives Standing Committee on Environment and Conservation, *Grants to Voluntary Conservation Organisations*, Canberra, May 1980.

79 Dunphy M., 'Conservation and Australians', address to the annual conference of the Small Animal Veterinary Association, Sydney, November 1976, p.4. Compare an American assessment, Everett P., 'Financial Assistance for Public Interest Group Participation in Environmental Decision-Making', *Environmental Law*, Vol. 10, 1980, pp. 483-515.

80 Lissner A., *The Politics of Altruism*, op. cit., Chapter V.

81 Molin B., *The Supplementary Pensions Question : A Study in Swedish Party Politics*, op. cit., pp. 71-73.

grants-in-aid, even to groups they tend to distrust, but will retain some flexibility by creating uncertainty about the continuation of such assistance⁸².

Some conservation groups, such as ACF, have received substantial private bequests from time to time, often with conditions attached which hamper utilisation of the funds or which demand the holding of property in perpetuity, a difficult proposition for voluntary organisations whose administrative capacity and funding is limited⁸³. Conservation groups sometimes receive donations from private enterprise, but they are modest amounts relative to those available to their opponents. Forestry and mining interests have not only funded commercial television programmes, featuring propaganda favourable to the industries, but have also flooded schools with glossy pamphlets aimed at ensuring '... Austalians gain 84 a balanced picture of the effects of mining on the environment and society.' Eco-activists cannot easily counter such propaganda, but have to rely upon the media to publicise their opposing viewpoint.

3.4.4 Leadership

In Chapter 2, the importance of charismatic leadership and hard-working activists was stressed, but in most instances the policy-making apparatus of Australian conservation groups consists of part-time committees and councils, assisted by small secretariats, so uneven performance is inevitable⁸⁵. Although it is difficult to validate empirically, an impression is gained that formalisation (some would say bureaucratisation) has increased in recent years, arising from a variety of causes. The availability of limited grants-in-aid from the federal Government since

82 Downs A., *An Economic Theory of Democracy*, Harper and Row, New York, 1957.

83 Large bequests often lead to internal factionalism within voluntary groups, some members wishing to expend 'windfall gains' on current campaigns, while more conservative elements favour investment and longer-term projects.

84 Figgis P., *op. cit.*, p. 38. See also Australian Mining Industry Council, *Mining . . . and the Environment*, revised edition, Canberra, 1978.

85 Data based on surveys by the author and discussion with conservation group leaders.

1974 has been one factor, moreover the need for some research capacity has favoured the creation of small central directorates. The turnover of personnel on committees and employed staff is high, mainly due to the pressures involved and uncertainty of funding. Some differences of opinion arise about tactics, particularly on national committees and state councils, since the diversity of regional representation and issues leads to sharp debates about priorities⁸⁶.

Because voluntary groups must appeal to the general public for support, charismatic leadership would prove a distinct advantage. While Australia has not yet produced the equivalent of a Barry Commoner or a Ralph Nader, there are individuals within the conservation leadership whose experience and opinion are widely accepted, at least by adherents to the cause. Dr Geoff Mosley, Milo Dunphy, John Sinclair and Dr Bob Brown, would fall into this category. Each has a distinctive viewpoint, but all have articulated the conservation ethic forcibly and are astute tacticians⁸⁷. Some important establishment figures have been associated with the movement, e.g. Sir Garfield Barwick, Sir Mark Oliphant, Dr H.C. Coombs and Sir Edmund Hillary, but these individuals have been more influential in creating an air of legitimacy and respectability than in actual leadership participation⁸⁸. Other individuals perceived by the public as conservationists, such as media personality Harry Butler, are regarded with suspicion within the movement because of their acceptance of lucrative contracts and business support⁸⁹. Artists and poets are also regarded as important contributors to conservation, not so much through a leadership role as by an ability to articulate environmental philosophy in a manner acceptable to the public. The poetess and author, Judith Wright McKinney, is one such activist⁹⁰.

86 One of the major weaknesses of ACF is that the regional voting provisions prospectively permit State seats to be captured by power blocs. There is little evidence of such coups, but it is a weakness of the organisation's constitution at present.

87 Information based on interviews with members of a variety of conservation organisations.

88 Figgis P., *op. cit.*, pp. 39-40.

89 The conservation movement probably needs some individuals with an ability to gain the confidence of business corporations, but 'sellouts' are not countenanced within the movement.

90 Judith Wright McKinney was recently elected to Hon. Life Membership of ACF

The perceptions and ideologies of group leaders and the operational styles of individual conservation organisations are also important. Dr J.G. Mosley, Director of the Australian Conservation Foundation, has repeatedly stated that his organisation's role is to act both as general advocate and catalyst for conservation in Australia. He has criticised the environmental movement for being reactive and defensive, instead of forward-looking and constructive⁹¹. Mr Paul Barnes, former President of the Australian National Parks Council, has stressed the need to work through the existing institutions of government, by presenting thoroughly researched factual reports and specific recommendations⁹². His views are not shared by Mr Milo Dunphy of the Total Environment Centre in Sydney, who argues that governments accede only to pressure, hence confrontation is the principal method of achieving reform⁹³. Overall there appears to be considerable diversity in attitudes and operational styles, because of the cross-currents of tradition, purposes and values that abound within the environmental movement itself.

3.4.5 Some Organisational Examples

(a) The Australian Conservation Foundation

As yet, Australia does not possess a truly national grouping of environmental institutions within the voluntary sector; in part this reflects the nature of Australian federalism where regional groups have always endeavoured to pursue a largely independent line, but it is also a measure of confidence in one single organisation, the Australian Conservation Foundation, that this body has been recognised from its inception as the unofficial leader of Australian environmentalism⁹⁴. The Australian Conservation

91 Mosley J.G., 'The Implementation of Policies : Conservation', *Royal Australian Planning Institute Journal*, January 1975, pp. 27-30.

92 Barnes P., 'The Role and Achievements of National Park Associations and Kindred Voluntary Organisations in Identifying and Conserving the Natural Heritage of Australia', Sydney, 1977.

93 For a study of Milo Dunphy and Total Environment Centre see Angel J., *Environmental Politics in Australia: A General Survey & An Interest Group*, honours thesis in Government, University of Sydney, 1974.

94 ACF was the first Australian conservation body with a national title and orientation. It has steadfastly pursued this role since its inception, without claiming to speak for environmentalism as a whole.

Foundation is the institution which other conservation groups refer to for advice and support and its overworked secretariat has done much to provide a truly national service, despite limited resources. The Foundation has frequently opposed Government policy, but always with the long-term interests of Australia at heart, and has represented the nation in many important international forums, despite the antipathy of politicians and bureaucrats to non-governmental organisations⁹⁵.

The ACF was created in 1965 and in its initial years was very much an 'establishment' organisation in leadership and style. During the wave of environmental popularism of the late 1960s and early 1970s, it gained a broader based membership and there was a discernible shift in fundamental ideology, spectrum of activities and regional representation⁹⁶. Centred in Melbourne, despite attempts to move the headquarters to Canberra, it possesses several regional chapters and is governed by a president, thirty-five elected councillors (five from each State and three from the Northern Territory and elsewhere), and a national secretariat. Due to the expense involved in meeting, the councillors gather only three or four times a year, with a four-man Executive Committee determining policy between Council meetings⁹⁷. The policy-making process involves three major sub-committees: Energy, Resources and Employment; Natural Environment and Wildlife; and Forestry and Land Management, with wilderness conservation the primary focus of the latter two groups.

95 ACF has sometimes been granted observer status at international meetings, but never officially included in the Australian Government delegations. This should be compared with the practice in some countries of including non-governmental organisations (NGOs).

96 Figgis P., *op. cit.*, pp. 34-35.

97 The Executive is wary of decision making without the approval of Council, hence control is not tightly centred. The secretariat exercises considerable day-to-day administrative power, but refers all major policy matters to Council.

ACF has a membership of approximately 10,000 people and corporate sponsors, which may not appear large in a national population of 14 million people; nonetheless it is greater than most political parties and is high relative to conservation groups in other nations if demography is taken into account⁹⁸. The annual budget is approximately \$600,000, the administrative allocation being higher than in other conservation groups because of the national focus of the organisation. There is a vulnerability in partial reliance upon government and corporate financial assistance, but the organisation is steadily achieving self-sufficiency through fund raising, publication sales and bequests. Despite limited scale, the influence of ACF is significant within government circles, and it is expanding its activities in this regard by establishing a national liaison office in Canberra and project officers in various States⁹⁹.

(b) The Australian National Parks Council

Another national body with higher overall membership than the Australian Conservation Foundation, but with much more specialised activities, is the Australian National Parks Council (ANPC) established in May 1975¹⁰⁰. ANPC represents approximately 15,000 members in twelve national park associations and related organisations throughout the Australian States and Territories. As the name implies, ANPC's primary interest is the establishment and good management of national parks, nature reserves and conservation zones throughout the nation. Some of the national park associations such as those in Queensland, New South Wales and Victoria, are long established and have a fine

98 An assessment based on surveys conducted by Dr Max Bourke, Director of the Australian Heritage Commission, during overseas travel in 1980.

99 The national liaison office has a lobbying and information role; however, ACF's recognition within the bureaucracy stems from expertise and educational activities.

100 Australian National Parks Council, *First Report May 1975-September 1978*, Canberra, 1978.

reputation for providing well-documented advice to government¹⁰¹.

ANPC maintains a relatively low profile and its membership is more conservative than ACF, but its record of achievement is significant although little known to the public.

(c) Other Groups

In addition to these federal groups, neither of which is strictly the elected leader of the conservation movement, there is an immense variety of State, regional, special interest, semi-professional, research-orientated and activist institutions, representing scientific, educational, advocacy and ideological viewpoints¹⁰². Two random examples will suffice to illustrate the diversity involved. The Tasmanian Conservation Trust Inc. was established in 1967-68 during the Lake Pedder controversy, but it did not achieve prominence within its jurisdiction until the emergence of the Precipitous Bluff controversy in 1971-72. The Trust is an umbrella organisation in that it is actively engaged in a variety of urban and countryside conservation matters simultaneously, at both State and federal levels, but it also possesses four relatively autonomous branches within Tasmania. Membership has fluctuated between 400 and 700 persons, with an annual budget of approximately \$65,000 in 1977-78, including a grant of \$13,000 from the Commonwealth Government¹⁰³.

The Trust has demonstrated an excellent research capacity, undertaking a number of specialised studies for the Australian Heritage Commission and State Government, but has simultaneously assumed a more activist role with respect to land-use planning, mining and forestry proposals,

101 See *NPA News*, 50th Anniversary Issue of the National Parks Association of Queensland Journal, Vol. 50, No. 5, August 1980.

102 Australian Conservation Foundation, *Greenbook*, Melbourne, 1978. Note also directories of environmental groups in individual States and Territories.

103 See *Annual Reports* of the Tasmanian Conservation Trust Inc, also the Trust's submission to the Commonwealth Department of Home Affairs, March 1978.

urban issues and a variety of environmental problems¹⁰⁴. Despite its outspoken comment, the Trust is sufficiently respected to be granted representation on many advisory bodies within government¹⁰⁵.

Contrasting with such multi-purpose voluntary institutions are single-issue activist groups, such as the Fraser Island Defenders Organisation (FIDO), formed in Maryborough, Queensland in 1971.

FIDO has concentrated upon the prevention of sandmining and forestry operations in scenic areas of Fraser Island, some 200 kilometres north of Brisbane¹⁰⁶. Led by a charismatic figure, John Sinclair, who has suffered many personal penalties for his opposition to State politicians and regional economic interests, FIDO has steadily pursued a policy of financial independence, skilful media presentation of its case and thorough photographic documentation of impacts upon the environment¹⁰⁷.

The triumphs and tragedies of this organisation will be related in Chapter 7 of the thesis, but it is apparent from the foregoing information that considerable variations in scale, objectives and operational style exist within the Australian conservation movement.

3.4.6 The Role of Voluntary Conservation Organisations

In attempting to summarise and assess the role of the Australian conservation movement, it is necessary to distinguish between the functions claimed by the eco-activists themselves (inner role perceptions) and the observations or judgments of external commentators and critics. Leaving the latter aside for the moment, it is possible to identify a spectrum of claimed attributes of groups from spokesmen and journals of the environmental movement itself. Whether these assertions are valid or not, the role of the

104 Tasmanian Conservation Trust Inc., various submissions to government enquiries, e.g. *Report to the Power Development Co-ordinating Committee, Franklin and Gordon Rivers*, Hobart, February 1980.

105 The Trust is represented on the State Environmental Advisory Council, the National Parks and Wildlife Advisory Council and the Interim Heritage Committee.

106 For a record of FIDO's achievements see *Moonbi*, Newsletter of the organisation, Maryborough, Queensland, 1971 to date.

107 The photographic record of environmental impacts has proved invaluable in the courts and legislature. Other conservation groups do not appear to have adopted this tactic.

voluntary conservation groups is identified as follows:

- (i) they act out a watchdog role with respect to environmental issues and nature conservation problems. It may be too much to claim that they keep government honest, but their constant monitoring of the bureaucratic and political apparatus should improve accountability within the public sector;
- (ii) they maintain an advocacy role for the conservation ethic generally and operate as educators within the community on environmental issues;
- (iii) they help safeguard rare and endangered species, ensuring the retention of genepools and diversity, as well as protecting scientific reference points;
- (iv) they are a source of expert knowledge and advice on particular regions or ecosystems, often possessing considerable interdisciplinary skills within their own ranks;
- (v) they may assist with research assignments, and tend to deliver higher yield per dollar expended than more formal institutions or professional consultants; and
- (vi) they tend to be advocates of democratic participation in government and act as barometers of social change¹⁰⁸.

Critics of the Australian conservation movement would not agree with this perspective and view such interest groups as narrowly orientated and a threat to the established order. One Western Australian parliamentarian expressed his forcible opinion thus:

' It's about time Australians woke up to this group of anarchists who are endeavouring to subvert democracy by attempting to have their own way regardless of the consequences to individuals or the nation. . . ' 109

108 These factors have been derived from a number of publications and government reports. See, for example, reports from workshop groups First National Wilderness Conference, October 1977 in Mosley J.G., *Australia's Wilderness : Conservation Progress and Plans*, Australian Conservation Foundation, Melbourne, 1978.

109 Liberal MP, Barry Blaikie, quoted in *Coastal District Times*, newspaper, 9 February 1979.

Given these competing judgments, additional evidence is necessary, but it is apparent that adherents of the conservation cause construe their central role as bringing ecological issues before the public, engaging as activists within the political arena, and representing regional diversity and environmental concern. Within an economic and governmental system largely geared to the provision of material benefits and private gain, they raise the important question of who should speak for Nature and posterity and against the gradual attrition of the commons; who protects diversity or reflects upon irreversibilities and social opportunity costs¹¹⁰.

It is sometimes asserted that environmentalists are doomsayers or members of groups prospectively open to capture by radicals¹¹¹. While it is certainly true that many Australian conservationists are openly sceptical about mankind's prospects for survival, they are actively working to ensure that catastrophe does not occur. In this sense they are optimistic rather than pessimistic. Although there may be some risk of capture of conservation organisations by radical groups, the probability of such coups is extremely low and far more difficult to achieve in practice than is popularly supposed. Overseas studies indicate that although radical individuals exist within the environmental movement, their influence within the total framework is slight, but may increase if repressive measures are adopted against the anti-nuclear faction¹¹². In Australia, a diligent search by the author has revealed only two instances of attempted coups against existing conservation bodies; in one instance the radicals gained power briefly and were then soon displaced, and in the other situation they

110 Passmore J. *Man's Responsibility for Nature*, op. cit.; Fowles J., *The Tree*, Little Brown and Co., Boston, 1979, a philosophical examination of Man's relationship with the environment.

111 Samuel P., 'Environment: Are the Progressives in Fact Reactionaries?', *The Bulletin*, 13 March 1971, pp. 18-19.

112 McCloskey M., 'The Unique Role of America's Public Interest Lobby', U.S. Information Service *Byliner*, No. 7, 1977; Camilleri J., 'Ecological Politics : The Birth of a New Movement', *World Review*, Vol. 17, No. 1, April 1978, pp. 45-59.

failed to achieve their objective¹¹³. This is of little consequence in a political arena where at least 1200 environmental groups operate within Australia.

3.5 ENVIRONMENTAL POLITICAL PARTIES

Although a few independent political candidates have claimed allegiance to environmental values during State and local government elections, the concept of environmental political parties has not yet taken root in Australia. As Camilleri and other analysts have noted, so-called 'green movement' political parties are a comparatively recent phenomenon in Europe and North America, although already making their presence felt in many marginal constituencies¹¹⁴. There is one Australian example, however, which suggests that the notion of an environmental political party was initially tested in Tasmania between 1971 and 1974. The United Tasmania Group (UTG) came into being when State politics was fairly evenly balanced between Labor Party and Liberal Party representation, in a situation where the balance of power might be captured by any independent newcomer.

The United Tasmania Group, established in March 1971, was a loose affiliation of environmentalists of many persuasions, but all opposed to State Government plans to flood the Lake Pedder National Park for hydro-electric development¹¹⁵. The detailed account of that controversy is recorded in Chapter 4, but some political aspects must be recounted here. Members of the UTG lacked both political experience and an identifiable group of 'public' figures as candidates, but nonetheless decided to contest the State election which occurred in April 1972. In this campaign they were opposed not only by the major political parties, anxious to destroy their new rival at birth, but also by the Hydro-Electric Commission of

113 These are cases known to the author, others may have occurred but no known record exists. Conservation groups are emphatic that the movement is not vulnerable to capture by radicals.

114 Camilleri J., *op. cit.*, pp. 45-59; Symposium on American Environmentalism, *Natural Resources Journal*, Vol. 20, No. 2, March 1980, pp.221-358.

115 The record of the UTG's struggle has not yet been researched in detail or published. Elements can be traced in the submission of the United Tasmania Group to the Commonwealth Committee of Inquiry into Lake Pedder, March 1973.

Tasmania, which placed full page newspaper advertisements at public expense, claiming that if conservationists were elected to Parliament, the price of energy would rise¹¹⁶. Environmentalists asserted that it was improper for a public corporation to act in such a manner, nonetheless the end result was that UTG candidates failed to gain election, although one individual came close to winning a seat, despite having only a slender budget to publicise his cause¹¹⁷.

Following its electoral defeat, the UTG continued to act as a lobby group for some time before fading away as construction of the hydro-electric project continued¹¹⁸. Without a reasonably secure membership and financial resources, small political parties find it difficult to survive, especially if the policy platform is not sufficiently wide to attract new converts and diverse support¹¹⁹. It is also likely that the United Tasmania Group was subverted from within, by infiltration of some supporters of the Labor and Liberal parties. During the more recent Franklin-Gordon Rivers conservation controversy, a well-known environmentalist (Dr Norman Sanders) was elected to a vacant seat in the House of Assembly as a representative of the Australian Democrats¹²⁰. Dr Sanders has already earned a reputation as a challenging orator, but has discovered that individual representatives face a lonely and difficult task. Australia's first attempt at creating an environmental political party may have failed, but it will probably not be the only experiment in political intervention.

116 Australian Conservation Foundation, *Pedder Papers : Anatomy of a Decision*, Melbourne, 1972, pp. 31-39.

117 Information obtained from discussions with Dr R Jones, one of the founders of UTG.

118 There is some indication of a revival during the current Franklin-Lower Gordon Rivers energy debate, but it is unlikely that the UTG will ever be a force in Tasmanian politics.

119 Summers J., Parkin A., and Woodward D., (Eds.), *Government, Politics and Power in Australia : An Introductory Reader*, Longman Cheshire, Melbourne, 1980.

120 Dr Sanders has proved an articulate commentator on hydro-industrialisation. See *Hansard*, of the Tasmanian House of Assembly, 1980-81.

3.6 ALLIES AND OPPONENTS

As previously stated, covert assistance for the conservation cause is sometimes available through public servants and business interests, but this is a tenuous process, given that participants are anxious to conceal their identity. Generally, the Australian conservation movement has shown little capacity to build major coalitions or cement external alliances which might aid its cause. For a considerable period, mutual antipathy existed between advocates for the built and cultural environment, such as the National Trust and aboriginal groups, and those favouring nature conservation or environmental protection¹²¹. Fortunately, this deficiency has now been remedied, but other problems await solution. The environmental movement has shown limited capacity to enlist the support of the trade union movement, possibly because of the reluctance of union officials to enter into coalitions where their own personal power and status might be diffused, but also because of the failure of conservation spokesmen to present their case in language and values comprehensible and convincing to laymen¹²². Many conservation controversies occur in regions where employment is precarious, where large tracts of undeveloped land surround scenic features, or where development options might provide short-term employment for a mobile work force. In such situations, intervention by urban-based conservation groups is resented and construed as utopian meddling by over-educated idlers. It is easy for politicians and corporations to capitalise on such emotions, even if little actual benefit will ultimately accrue from development to local or temporary inhabitants¹²³.

121 Jealousies may have arisen over fund raising within the community; each organisation considering it was competing for a limited pool of prospective financial assistance. As each group gained viability, it became more willing to co-operate with other organisations. Co-operation has been excellent in recent years.

122 Eco-activists have been reluctant to establish lasting dialogues with blue-collar workers; probably one of the major errors by the movement.

123 Bell G., 'If the Land is being Raped, Two Towns are Enjoying It', *The National Times* (weekly), 6-11 December 1971, pp. 12-13.

Without doubt the major opponents of environmentalism in Australia are large transnational corporations operating through trade associations, professional lobbyists and public relations firms¹²⁴. Perhaps the prime example is the Australian Mining Industry Council (AMIC), a Canberra based organisation, well funded and administered, which has endeavoured to persuade federal parliamentarians to abandon the funding of voluntary conservation bodies and to restrict the public participation of community groups¹²⁵.

It has been claimed that industry groups have used undercover agents and private investigators in an attempt to discredit Australian environmentalists, but no firm evidence is available and counter-intelligence operations have certainly been mounted¹²⁶. In other instances, rural interests, timber companies and mining corporations have formed alliances to counter conservation campaigns, using petitions, media statements, lobbying of politicians and threatened violence¹²⁷. Such groups assume they can exceed the financial resources available to voluntary conservation groups. This assumption may be correct, but eco-activists rely upon persistence as much as capital, and are not easily deterred by the scale of opposition.

A more recent development in Australia is the creation of pseudo-conservation groups, using plausible titles as a cover for resource exploitation. One such group is the former Council for the Protection of Rural Australia, which in 1977 became the Association for Regional Parks and Countryside Commissions of Australia¹²⁸. This organisation has a very small membership, but is moderately well funded by development interests.

124 Roddewig R., *Green Bans : The Birth of Australian Environmental Politics* Hale and Iremonger, Montclair, New Jersey, 1979.

125 Memorandum and Articles of Association of the Australian Mining Industry Council, A.C.T., 1967. Note the statement by Mr G.P. Phillips, Executive Director of AMIC in the *Canberra Times* of 17 May 1978, attacking environmental legislation and aboriginal land rights.

126 Comment by senior officers of ACF. Other evidence is available, but cannot be quoted because of Australia's libel laws.

127 Note especially national park campaigns concerning the Australian Alps. Johnson D., *The Alps at the Crossroads*, Victorian National Parks Assoc. Melbourne 1974.

128 See newsletters of the Council for Protection of Rural Australia, also Goldsmith E., 'What Makes Kenny Run?' in *The National Parks Journal*, Vol. 22, No. 3, April-May 1978, pp. 9-12.

It has achieved little impact since being challenged by major conservation groups. In other situations, professional organisations and employee groups have taken an anti-conservation stance; the Hydro-Electric Employees Action Team (HEAT) is a Tasmanian example¹²⁹.

Some politicians, such as Sir Charles Court and Mr Bjelke-Petersen, have castigated the conservation movement, while industrial magnates such as Mr Lang Hancock and Sir Rod Carnegie have criticised what they regard as a threat to free enterprise. The fears and phobias thus expressed are well illustrated by Sir Charles Court's assertion that:

' Locally, mysteriously-financed pressure groups are trying to force governments into irrational decisions through high-powered arousal of emotions based on false information. . . . As far as I am concerned, the will of the people is the ballot box, not the pressure groups.' 130

As Finer points out, 'will of the people' mandates have been used in the past to establish tyrannies, although Sir Charles Court may not have recognised this point¹³¹. But outright opposition to environmentalism is not the sole form of countervailing pressure; there is clear evidence that growth-orientated government institutions have persistently lobbied behind the scenes to limit or reduce environmental controls and resist the reform of resource management practices¹³². This reinforces the point that in interest group politics, pressure exerted by one faction tends to generate countervailing pressure by other sectional interests within the community.

3.7 SUMMARY AND ASSESSMENT

Two significant conclusions may be drawn from the material presented in Part A of the chapter:

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- 129 HEAT is a group of hydro-electric employees seeking to protect their employment by advocating more dams and powerstations in South-West Tasmania. Details of its leadership and funding have not been released.
 - 130 Statement by Sir Charles Court in *The West Australian* newspaper, 25 August 1979.
 - 131 Finer S.E., *The Anonymous Empire : A Study of the Lobby in Great Britain*, Pall Mall Press, London, 1966, pp. 112-113.
 - 132 Healy R., *Land Use and the States*, John Hopkins Press, Baltimore 1976. Similar claims have been made in Australia.

- (a) Available literature on the Australian conservation movement contains a number of highly generalised claims about the values and prospects of environmentalism, but without substantiating evidence. Once the membership, organisation and operational style of conservation groups are examined in more detail, the complex character of Australian environmentalism becomes more apparent.
- (b) At least two kinds of constraints exist which may limit the effectiveness and performance of voluntary conservation organisations:
 - (i) most conservation groups are rather loose alliances of part-time participants, hence integrated action is difficult to achieve and sustain. Much depends on the ability of leaders to mobilise and motivate their members.
 - (ii) all community interest groups have to operate within the ground rules of the socio-political system. Much depends upon capacity to capture attention and to persuade the public or key decision-makers. But as activists become more vocal, countervailing action is more likely to be initiated by opposing interests seeking to maintain the status quo, or have their own priorities considered within the political system.

There is no easy path to success for lobbyists or pressure groups within the community; we must therefore turn to an examination of the tactics adopted when environmental conflict is generated.

PART B : ASPECTS OF ENVIRONMENTAL CONFLICT

3.8 IS THERE A THEORY OF ENVIRONMENTAL CONFLICT?

Environmental conflict involves political interaction between voluntary conservation groups and their opponents, principally bureaucrats and development interests, in an attempt to influence government policies and practices relating to environmental quality and natural resources management.

The question arises as to whether any formal theoretical model of environmental conflict exists and, if so, what it enunciates. A diligent but by no means exhaustive search of the literature of political science, public administration, planning and geography, has failed to reveal such a statement, but many other models of social conflict, decision processes, public participation and policy formation provide some elucidation¹³³.

In addition, a considerable number of case-studies of conservation controversies and the politics of environmentalism has been published¹³⁴. These analyses shed selective but useful light on various aspects of environmental debate, but most tend to record European or North American experience and the historical-descriptive methodology results in some inconsistency of presentation and evaluation. This thesis is not intended to provide a compilation of such cases or comparative assessment, but rather a selective examination of certain aspects of Australian experience, with special reference to the role of voluntary conservation groups.

In Australia, studies of conservation controversies have been published by Forward, Dempsey, Scott, Gilpin, Wilenski and Encel, but the emphasis has been on policy-making and interest groups generally, rather than on environmentalism¹³⁵. There are many emotional accounts by protagonists in environmental crises, but most tend to take the participants as 'given' with little real emphasis on modes of interaction¹³⁶. Two authors who

133 For examples, see Richardson J., and Jordan A., *Governing Under Pressure*, *op. cit.*; Fagence M., *Citizen Participation in Planning*, *op. cit.*; Sewell W.R.D. & Coppock J., (Eds.), *Public Participation in Planning*, *op. cit.*

134 Kimber R., and Richardson J., *Campaigning for the Environment*, *op. cit.*; Gregory R.G., *The Price of Amenity : Five Studies in Conservation and Government*, *op. cit.*; Dempsey R., (Ed.), *The Politics of Finding Out: Environmental Problems in Australia*, *op. cit.*

135 Some examples are Forward R., (Ed.), *Public Policy in Australia*, *op. cit.*; Scott R., (Ed.), *Interest Groups and Public Policy*, *op. cit.*; Encel S., & Wilenski P., (Eds.), *Decisions*, Cheshire Longman, Melbourne, 1981.

136 Johnson D., (Ed.), *Lake Pedder : Why A National Park Must be Saved*, Lake Pedder Action Committee of Victoria and Tasmania, Melbourne, 1972.

have attempted a more thoughtful appraisal of environmental conflict are Burton and Mosley, who have published well substantiated analyses, often in conference proceedings or scientific forums outside the general ambit of political science¹³⁷. Their well researched documents have not always gained the audience they deserve.

Overall it may be claimed that although no general theoretical model of environmental conflict appears extant, relevant elements are discernible in a variety of studies within the fields of political science, public administration, geography and planning, with other dimensions added by the disciplines of law and economics¹³⁸. This is perhaps a somewhat bold assertion, but the material presented in the remainder of the thesis will illustrate the point. In the absence of any identified general theory, a number of surrogate models from the field of political science appear to have been utilised to explain particular aspects of environmental conflict. Three approaches most commonly considered are:

- (i) conflict models, examining group interaction within the policy milieu, especially power and influence mechanisms within political systems;¹³⁹
- (ii) public participation models, usually process orientated, concentrating upon means of involvement in decision-making and the attempted reconciliation of competing viewpoints;¹⁴⁰ and

137 Burton J.R., 'Hydro-Electric Planning for Australia's Water Resources', *Water Resources Use and Management*, Australian Academy of Science, Melbourne University Press, Melbourne 1964; Mosley J.G., 'Wilderness and Conservation : Case Studies of Conflicts' in Linge G., & Rimmer P (Eds), *Government Influence & the Location of Economic Activity*, Research School of Pacific Studies, Australian National University, Canberra, 1971, pp467-500

138 Cross-disciplinary studies are always difficult to pursue, but some publications aid information exchange. e.g. O'Riordan T., & D'Arge R., (Eds.), *Progress in Resource Management and Environmental Planning*, Vol.1, Wiley and Sons, London, 1979.

139 King R., 'Social Conflict and Environmental Decision-Making', paper presented at Sociology Conference, La Trobe University, Melbourne, August 1976.

140 Fagence M., *Citizen Participation in Planning*, *op. cit*; Sewell W.R.D. & Coppock J., (Eds.), *Public Participation in Planning*, *op. cit*.

- (iii) policy process models, dealing with issue emergence, dynamics of interaction, policy resolution and implementation, plus the impact of beneficiaries and losers¹⁴¹.

It is not intended to examine these various paradigms in detail here, but some elements will be employed in the case-study analyses presented in Chapters 4 to 7 inclusive. In the interim, some general observations will be recorded about the social and political culture in which environmental conflict occurs and the strategies and tactics adopted by eco-activists and their opponents during conservation controversies.

3.9 THE SOCIAL AND POLITICAL CULTURE

Among sociologists and political scientists, dispute exists as to whether Australian society is elitist, pluralist or corporatist in character¹⁴². A great deal of literature is available which argues that Australian government is elitist, secretive and expedient, in the sense that considerable power appears to reside in the executive arm of the legislature, certain key bureaucrats appear to have a marked influence on policy-making, and multinational corporations, captains of industry and top trade union officials are assumed to play a significant role in the structure and development of the Australian economy and society¹⁴³. Yet the identification of multiple and competing sources of power tends more towards a pluralist model than an elitist one, particularly as commentators such as Mathews and Condon point out the great variety and number of pressure groups within the Australian community¹⁴⁴. Influence cannot be gauged by enrolment alone, hence Encel regards Australian society as 'democratic elitist', arguing that identifiable centres of power exist, but tempered always by the power

141 Richardson J., & Jordan A., *Governing Under Pressure*, *op.cit.*

142 Encel S., *Equality and Authority : A Study of Class, Status and Power in Australia*, Cheshire, Melbourne, 1970.

143 Spigelman J., *Secrecy: Political Censorship in Australia*, Angus and Robertson, Sydney, 1972; Higley J., Deacon D., & Smart D., *Elites in Australia*, Routledge and Kegan Paul, London, 1979.

144 Mathews R., 'Pressure Groups in Australia' in Mayer H., (Ed.), *Australian Politics : A Third Reader*, Cheshire, Melbourne, 1966; Condon C., 'Experts, Decision Making and Pressure Groups' in Emy H., *The Pieces of Politics*, Macmillan, Melbourne, 1975.

of the public to intervene if they markedly dislike what is occurring¹⁴⁵. Graycar and other analysts argue that Australians favour an egalitarian image, though their society is inequalitarian in some respects¹⁴⁶. It may seem tangential to quibble about such judgments, but in assessing the prospects or otherwise of environmentalism, the socio-cultural values and power distribution within society are important factors.

If one adopts a corporatist perspective on Australian political economy, it may be postulated that the nation's natural resources will be exploited mainly by overseas corporations, that competition between the States for development will result in some sacrifice of environmental quality and there will be little consistency or cohesiveness of resources policy between the Commonwealth and States¹⁴⁷. These are interesting speculations but available evidence is not totally conclusive. Because Australia is a continental landmass with a federal system of government, the prospect of attaining uniform environmental policy and natural resources management appears remote, not only because of ideological differences amongst member governments, but also because of variations in climate and terrain and differential resource endowment. Given that most of Australia's population is centred in six capital cities, remote from areas of resource exploitation, perceptions of environment are often erroneous and decision-making occurs with incomplete knowledge¹⁴⁸. Despite the massive tracts of land involved, principal scenic features are rare, so substitution of alternative sites is not always feasible, even if conservation is accepted as a legitimate option. Overseas experience suggests that claims by development interests that no other source of materials will suffice are often

145 Encel S., *Equality and Authority : Class, Status and Power in Australia*, op. cit.

146 Graycar A., *An Introduction to Australian Social Policy*, Macmillan Sydney, 1976.

147 Crough G., Wheelwright E., & Wiltshire T., (Eds.), *Australia and World Capitalism*, Penguin Books, Ringwood, Victoria 1980; Stretton H., *Capitalism, Socialism and the Environment*, Cambridge University Press, Cambridge, 1976.

148 Seddon G., & Davis M., (Eds.), *Man and Landscape in Australia*, Australian National Commission for Unesco, Australian Government Publishing Service, Canberra, 1976.

incorrect; similarly the conservationists are wrong when they claim every site as 'unique' or of world quality.

According to sociologists, Australia enjoys a relatively high standard of living and its people are fairly materialistic¹⁴⁹. Conservationists pleading for more modest lifestyles are bound to be inhibited by such factors, especially if they themselves are enjoying a reasonably high standard of living. Problems of cohesion within the environmental movement are likely to occur when attempts are made to mount national campaigns; not only are there logistical problems of communication between groups, but regional priorities will also intrude¹⁵⁰.

In summary it may be argued that a diversity of geographical, political, social and cultural factors will affect the form and characteristics of environmental conflict. In order to comprehend these matters more clearly, we must consider the manner in which conservation issues enter the political arena and the tactics adopted by protagonists in environmental debate.

3.10 ISSUE EMERGENCE AND ARTICULATION

A great deal of emphasis is placed by political scientists on the way community issues are resolved, but it is equally important to understand how issues enter (or fail to enter) the political arena. Who decides that a particular problem requires government intervention and how is that message transmitted to the bureaucracy or executive? Why are some issues blocked while others become the subject of widespread debate and concern? Why are some issues reinterpreted to suit sectional interests or political concerns? Political theory does not handle this matter at all well, but it is of central interest to know why attention is concentrated on some problems and not on others¹⁵¹. The answer probably lies in the fact that

149 Encel S., *Equality and Authority : A Study of Class, Status and Power in Australia*, *op. cit.*

150 Scott R., 'Interest Groups and the Australian Political Process' in Scott R., (Ed.), *Interest Groups and Public Policy*, *op. cit.*, Chapter 10.

151 May J., and Wildavsky A., (Eds.), *The Policy Cycle*, Sage Publications, Beverley Hills, Calif. 1978, especially pp. 19-39.

there is no agreed community agenda; different societies and political systems face different problems and react to them in diverse ways.

Getting issues on the public agenda or keeping them off is a good indicator of the distribution of power within society. Schattsneider has stressed the importance of defining what the alternatives are in political debate. He argues that:

'... political conflict is not like an intercollegiate debate in which opponents agree in advance on definition of the issue. As a matter of fact the definition of alternatives is a supreme instrument of power; the antagonists can rarely agree on what the issues are, because power is involved in the definition. He who determines what politics is about runs the country, because the definition of alternatives is the choice of conflicts and the choice of conflicts allocates power.' 152

Finer argues that governments rarely intervene in issues unless forced to do so. In effect, interest groups such as voluntary conservation organisations, have to generate sufficient tumult to force political recognition, but once on the political agenda all parties to the debate will attempt to manipulate the interaction milieu to suit their own interests¹⁵³. This process of 'problem identification' is important, because it helps shape the mode of subsequent debate, as well as who may participate, but assimilation time may be required and one conflict may displace another or be transformed to 'manageable scale' within the political system. Given this turbulent milieu in which many protagonists are vying, non-decision may prove as effective as positive initiatives or vigorous activism¹⁵⁴. The vital role of the media, as well as accidents of timing, is apparent: it is the conjunction of situation, personalities and information which proves decisive in decision-making.

152 Schattsneider E.E., *The Semi-Sovereign People*, 1960 (publisher unknown) quoted in Richardson J., & Jordan A., *Governing Under Pressure*, *op. cit.*, pp. 79-80.

153 Finer S.E., *Anonymous Empire*, *op. cit.*, p. 3.

154 Crenson M., *The Un-Politics of Air Pollution*, John Hopkins Press, Baltimore, 1972.

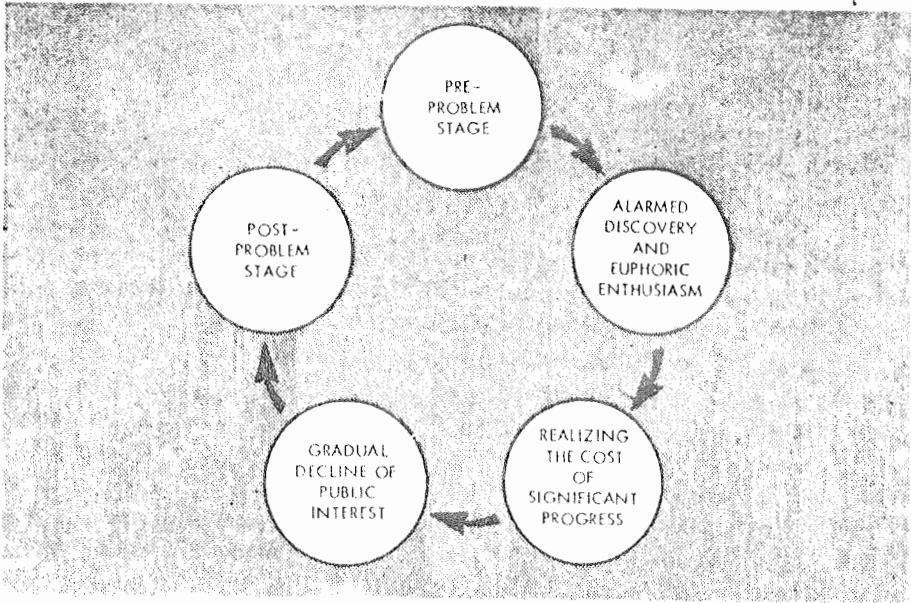
Any particular environmental issue will impinge upon the public in several different ways. Some people will simply be unaware of the problem, either because it does not appear to involve them or because it is low on their political agenda. Others will resign themselves to it, because they are political fatalists, or at least use this excuse for doing nothing. Still others will recognise the threat to environmental quality, but resolve it by psychological adjustment or social conformity¹⁵⁵. The real catalysts for change are likely to be few in number, but they are persistent or have the personality to project a message or dragoon others into action. A small group will seek to take action on a situation, either through traditional forms of political protest, such as letter-writing, petitions or by joining or forming a pressure group of some kind. Once this occurs and bureaucratic or political forces respond, the trend of events becomes uncertain, with the participants interpreting the issue in different ways, often to suit their own ends. In such a babel, reasoned discourse is difficult and the flow of activities assumes a momentum not totally controllable by any protagonist. 'Influence' rather than discourse becomes politically important¹⁵⁶.

Downs argues that an identifiable issue-attention cycle is present for all matters of concern within the political arena¹⁵⁷. Initially, in the pre-problem phase, only a few prescient and catalytic individuals perceive that a social or ecological problem has arisen, the majority of citizens ignore the matter in favour of perceived agendas deemed of higher priority. The second stage is one of alarmed discovery and euphoric enthusiasm for an

155 Bolan S., 'Community Decision Behaviour : The Culture of Planning', *American Institute of Planners Journal*, September 1969, pp. 301-310.

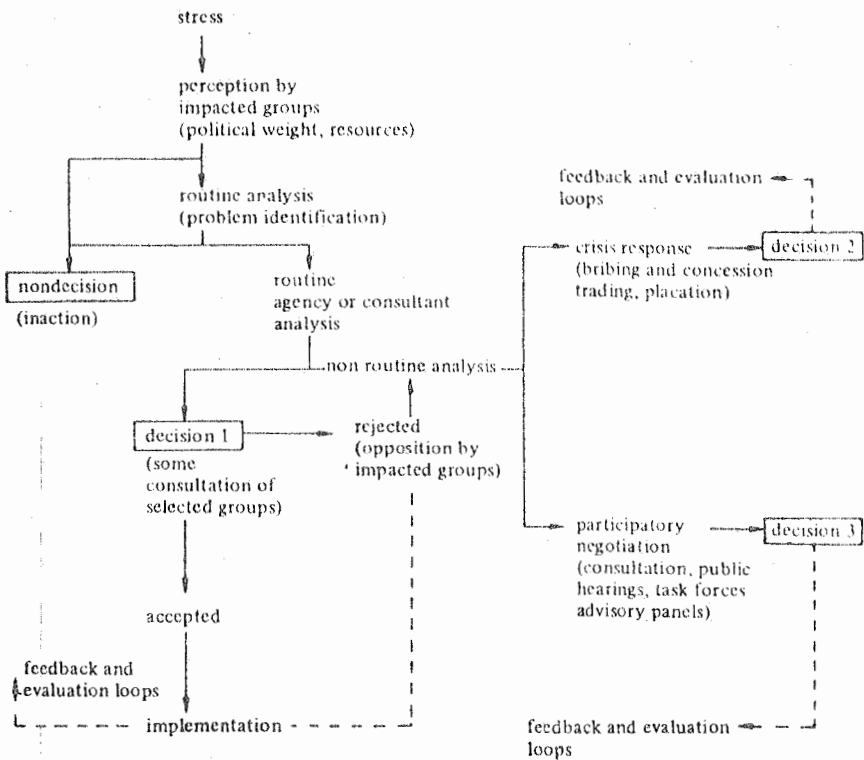
156 Allison L., *Environmental Planning*, Allen and Unwin, London, 1975; Barbrook A., *Power and Protest in American Life*, Martin Robertson, London, 1977.

157 Downs A., 'The Issue-Attention Cycle and the Political Economy of Improving our Environment' in Bain J., and Ilchman F.(Eds.), *The Political Economy of Environmental Control*, University of California Press, Berkeley, 1972, pp. 9-34.



The issue-attention cycle

(Source: Sewell W.R.D. and Coppock J.(Eds), *op. cit.*, p. 7)



(Source: O'Riordan T. *op. cit.*, p. 246)

DIAGRAM 4 : DECISIONAL PATHWAYS IN ENVIRONMENTAL POLICY-MAKING

for an immediate solution; the issue captures public attention through the media and there are calls from a variety of sources for prompt government action, which is then readily promised by politicians. The third stage is one of growing pessimism as the complexity of the issue emerges and the high cost of corrective action is perceived. The fourth stage is one of tokenism, as government policies and programmes undergo implementation, usually on a reduced scale to that initially contemplated and thwarted by the lobbying of countervailing interests, so that the realities of action do not match the rhetoric of political promises. At this stage public interest usually declines in favour of new and more pressing issues. Finally the post-problem stage is reached when the issue is consigned to prolonged limbo, unless some new factor resurrects the problem in a completely fresh guise¹⁵⁸.

The public may believe that a solution has been achieved but in fact only part of the problem has been dealt with. A fickle community has been brainwashed by the media to the point where attention to disagreeable news is shallow and ephemeral; indeed the public may react hostilely towards those who persist in confronting them with unpleasant truths¹⁵⁹. Downs claims that the political arena involves competing issues, awkwardly time-phased; politicians are aware of this fact and engage in token treatment of social ills before diverting to new opportunities of self-aggrandisement. In mitigation, it must be pointed out that the political agenda is always long and tradeoffs virtually inescapable. The initiating point in all public issues is dissatisfaction with the existing system, but it is not too much to suggest that the seeds of disquiet often lie amongst the anticipated consequences of earlier decisions. Downs perhaps overstates his case, but there are elements of his scenario which remain decidedly persuasive¹⁶⁰.

158 *Ibid*, pp. 10-18.

159 Banks M., *Resolution of Conflict*, Martin Robertson, London, 1981; Moodie G., and Studdert-Kennedy G., *Opinions, Publics and Pressure Groups*, Allen and Unwin, London, 1960.

160 Note the issue-attention cycle apparent in the Lake Pedder case described in Chapter 4 of the thesis.

3.11 DYNAMICS OF INTERACTION AND CONFLICT

3.11.1 Preconditions for Achieving Political Influence

Two British commentators, Kimber and Richardson, have attempted to identify the preconditions essential for success in gaining political influence. Their advice to eco-activists is:

(a) Advance intelligence

Forewarned is forearmed: the more access a group has to information upon which decisions may be based, but before policy becomes binding, the greater the prospect of influencing the outcome. There is nothing more intractable than an evangelistic bureaucrat or a politician with his mind made up, so friendly contacts in the right places can prove immensely helpful. Obtaining advance warning may prove difficult, because governments, despite claims of reducing secrecy, recognise the political dangers of too much 'openness'. Yet sympathetic insiders will often turn a blind eye to leakages of information, provided they are sure the origins will not be disclosed.

(b) Liaison with administration

Public servants recognise the necessity of consulting interest groups prior to decision, but seek to do so selectively on their own terms. Environmental groups usually attempt to gain sufficient recognition to become accepted commentators on policy, but this takes time to achieve and may involve some 'soft-peddling' in order to appease legislators and appear respectable. There is a serious moral dilemma in trading off principles for politics, so differences arise between those who favour negotiation with officialdom and those who believe confrontation is the means of securing influence. Sometimes environmental groups resolve this dilemma by splitting into two halves: a respectable 'establishment' body and a more radical

activist group. Scott and Zeigler warn that politicians and bureaucrats will attempt to neutralise interest groups by coaptation into token advisory authorities¹⁶¹.

(c) Rational argument and expertise

Modern society is strongly imbued with respect for education, expertise and specialisation, moreover whoever controls information gains advantage when issues must be resolved. If eco-activists wish to oppose technocrats, they must conceal emotion and appear as dispassionate rationalists, using professional advice and factual evidence. To convince legislators and the public, logical argument must be presented and political feasibility must be considered.

On the other hand, settling for 'lowest common denominator' solutions may limit the statutory and institutional reforms which many environmentalists believe essential for the future.

(d) Relationships with legislators

Contact with established decision-makers and key institutions is vital in waging tactical political battles against entrenched opposition. Friendly contacts on important committees obviously helps, but the major aim must be to gain some indication of the mood of the legislature and to establish contact mechanisms so that views may be transmitted quickly and discreetly.

(e) Relationships with the mass media

The media not only activate public interest in issues, but help to shape opinion. The media also understands how to investigate rumour, obtain unofficial information, and persuade the public by clever timing and judicious projection of images. They tend to be sympathetic to political 'underdogs' and 'people versus bureaucracy' battles, but may assume that most environmental issues have now been canvassed or that

161 For discussion see Scott R., (Ed.), *Interest Groups and Public Policy*, *op. cit.*, pp. 230-232.

reportage must be spectacular if public attention is to be captured. In short, eco-activists must work hard if they are to gain the trust and support of the media.

(f) Sanctions

Environmental groups must be prepared to attempt to invoke sanctions as a last resort, but the armoury may prove thin, delaying tactics being the best means of worrying politicians, public servants and corporate interests. Evidence of public support will cause opponents to take care, but still more effective is the threat of delays to cherished projects on formal procedural grounds. Bureaucracies do commit procedural errors and unwittingly contravene statutes; some conservation groups search diligently for such errors or any evidence of arbitrary or capricious action in official circles. The question then becomes: how to employ such evidence to best advantage. Publicising official misdemeanours may suffice, but as indicated in Chapter 6, legal redress of grievances is less easily attained¹⁶².

3.11.2 Strategies Adopted by Conservationists

There is little evidence to date that conservationists consciously exploit the tactics advocated by Kimber and Richardson; indeed there are many practical obstacles to doing so. On the whole, environmental conflict appears to be a far more turbulent and haphazard affair than many participants or observers recognise; the sheer momentum of events and unexpected twists of fate may radically alter the political situation in a relatively short time. Yet there are wars of attrition in which opponents virtually become deadlocked and not all victories or defeats are truly decisive¹⁶³.

162 The preconditions for successful influence by interest groups are derived from a number of texts, not just a single source. Gregory R.G. *The Price of Amenity*, *op. cit.*, summarises the situation very well; O'Riordan T., *Environmentalism*, *op. cit.*, pp. 255-256 makes virtually the same points.

163 Wood C., 'The Use of Threat in Community Decision-Making: The Goldstream Case, Victoria, B.C.', in Sewell W.R.D. and Coppock J., (Eds.), *Public Participation in Planning*, *op. cit.*, pp. 71-88.

Investigation of a number of conservation conflicts recorded by Mosley and other writers suggests that tactics change over time and learning costs may be involved¹⁶⁴.

Empirical evidence indicates that Australian conservation groups tend to adopt four principal strategies in their struggle to preserve the nation's vanishing wilderness:

- (i) they engage in general lobbying tactics aimed at the introduction or amendment of legislation, the modification of administrative procedures, or preventing the occurrence of certain actions;
- (ii) they challenge project evaluation methodology or aim to influence decision-making when development options are being investigated;
- (iii) they invoke environmental law, more or less as a last resort, claiming that amenity rights are being infringed or that the public interest is ill-served; and
- (iv) they attempt to use intergovernmental relations as a lever to force one level of government to act against another¹⁶⁵.

The central problem for the eco-activists is to gain and hold public support throughout the extensive time horizon of conservation conflicts, in a situation where their own organisation has limited resources and cohesiveness and is opposed by legitimised bureaucratic forces, political expediency and the countervailing measures of private sector influence and intransigence. The struggle is extremely political in that natural resources are a source of wealth and power, hence rivalry for jurisdiction and ownership

164 Mosley J.G., 'Wilderness Conservation : Case Studies of Conflicts', *op. cit.*, pp. 496-498; Tribe L., Schelling C., & Voss J., (Eds.), *When Values Conflict*, Ballinger Publishing Co., Cambridge, Mass. 1976.

165 These strategies were identified by the author during interviews with politicians, public servants, entrepreneurs and conservationists, while compiling data for the thesis

is intense, even to the point where public institutions openly compete for territory and authority within the public domain, as well as in the broader community beyond¹⁶⁶.

Environmental conflict has been compared to guerilla warfare in which voluntary conservation groups harry the flanks of the established order, seeking not only to change resource management practices, but also to alter societal values through educative processes aimed at 'winning the hearts and minds of the people'. One cannot take the warfare analogy too far, nonetheless conservation controversies do involve opposing forces, a variety of tactics, some bargaining and compromise, strategic withdrawals and major confrontation, not to mention propaganda smokescreens and the blackening of opponents' names¹⁶⁷. The conventions of democratic society are not always observed, but environmentalism is a complex and persistent phenomenon, hence we would do well to study it in order to learn more about governmental processes and to comprehend the functions of public participation in decision-making.

At first glance, it might appear that all advantage lies with the legitimate forces of cabinet and the bureaucracy, when issues relating to nature conservation and environmental protection arise. Many powerful obstacles exist to impede eco-activists seeking to expand amenity rights at law or trying to modify resource management practices; indeed the difficulties seem far greater in Australia than in the United Kingdom or United States. In England, various planning statutes and the long-established tradition of public inquiries ensures that public participation occurs before development projects or landscape conservation measures are sanctioned.¹⁶⁸

¹⁶⁶ Smith P. (Ed.), *The Politics of Physical Resources*, op. cit., Thompson D., (Ed.), *Politics, Policy and Natural Resources*, op. cit.,; Nelles H.V., *The Politics of Development*, Macmillan Company of Canada, Toronto 1974.

¹⁶⁷ Rosenbaum W., *The Politics of Environmental Concern*, op. cit., pp. 56-92.

¹⁶⁸ The Skeffington Report, *People and Planning*, HMSO, London, 1969; Breach I., *Windscale Fallout*, Penguin Books, Harmondsworth, 1978.

In the United States, the National Environmental Policy Act (NEPA) of 1969 and the willingness of the courts to recognise the constitutional rights of individual citizens, means that preventative or remedial action can be taken when environmental quality is threatened¹⁶⁹. In Australia, neither of these formal safeguards exist and too much reliance seems to be placed on the discretion of ministers and evaluation methodology such as cost-benefit analysis and environmental impact assessment¹⁷⁰.

Given the shield of the Crown and the considerable power and discretion exercised by ministers and officials, not to mention the economic influence of multinational enterprises and trade unions, conservation groups appear to face an almost impossible task in challenging existing resource management practices. There are vulnerabilities, however, within the political and administrative system:

- (i) environmental consciousness may be token in Australia, but politicians recognise the need to pay lip service to conservation and may be cajoled or persuaded to enter into tradeoffs beneficial to nature conservation and wildlife protection;
- (ii) justice must appear to be done. The media and the public will have little sympathy for politicians or public servants who appear to exercise arbitrary or unjust authority;
- (iii) solidarity is not as uniform or entrenched as agencies like to suggest. Not only is there a great deal of genuine disagreement within departments about actions to be taken, but factions, infighting, personality clashes and inter-organisational rivalries are quite common, to the point where agencies would prefer an occasional victory for conservationists rather than for their rivals.

169 Lucas A., and Moore P., 'The Utah Controversy : A Case Study of Public Participation in Pollution Control', *Natural Resources Journal*, Vol. 13, No. 1, Jan. 1973, pp. 36-75.

170 Hagan J., 'Clutha: The Politics of Pollution', *Politics*, Vol. VII, No. 2, November 1972, pp. 136-148; Thompson N., 'Politicians, Public Servants and Public Investment Decision-Making', *The Australian Quarterly*, Vol. 43, No. 2, June 1971, pp. 64-71.

- (iv) information is the Achilles heel of government. Not only do leakages occur from within the system, but officials are well aware that much of their data is suspect, both in terms of reliability and suitability for planning and decision-making. It is possible to mislead the public for a while but if credibility is seriously damaged it will take a considerable time to restore, since the community is advisedly suspicious of bureaucratic motivations and intentions¹⁷¹.

The conservation groups face similar problems of marshalling resources and gaining the attention and confidence of the public and legislature. Some of the tactics of advocacy, persuasion and attempted coercion outlined in Chapter 2 are employed, but different environmental groups may well adopt different approaches and styles. Protective groups tend to argue for a particular territory or purport to speak in defence of specific interests, while promotional groups try to foster appeal for a particular cause, by building public empathy and support for it¹⁷². Once battle is joined, the outcome is not entirely predictable, especially if an escalation of conflict occurs. British analysts argue that the sequence of events generally occurs along the following lines:

- (a) Conservation groups initially adopt moderate stances and seek reasoned discourse and negotiation with politicians and public servants. The closed minds of many public servants, coupled with secrecy about intentions, soon leads to more militant attitudes. The two principal difficulties within the public service are the constraints imposed by extant policies or countervailing interests and the assumption that conservationists constitute a minority

171 Richardson J., & Jordan A., *Governing Under Pressure*, *op. cit.*, Chapters 5 and 6; see also Sewell W.R.D., & Coppock J., (Eds.), *Public Participation in Planning*, *op. cit.*, Chapters 1, 2 and 11.

172 Salisbury R., 'An Exchange Theory of Interest Groups', *op. cit.*, pp. 1-32; Berry J., *Lobbying for the People*, *op. cit.*, pp. 35-37.

lunatic fringe lacking expertise and practicality within the area under dispute¹⁷³. More sympathetic officials try to respond through established procedures, but these are ill-prepared to cope with community demands and generally fail to appease eco-activists¹⁷⁴.

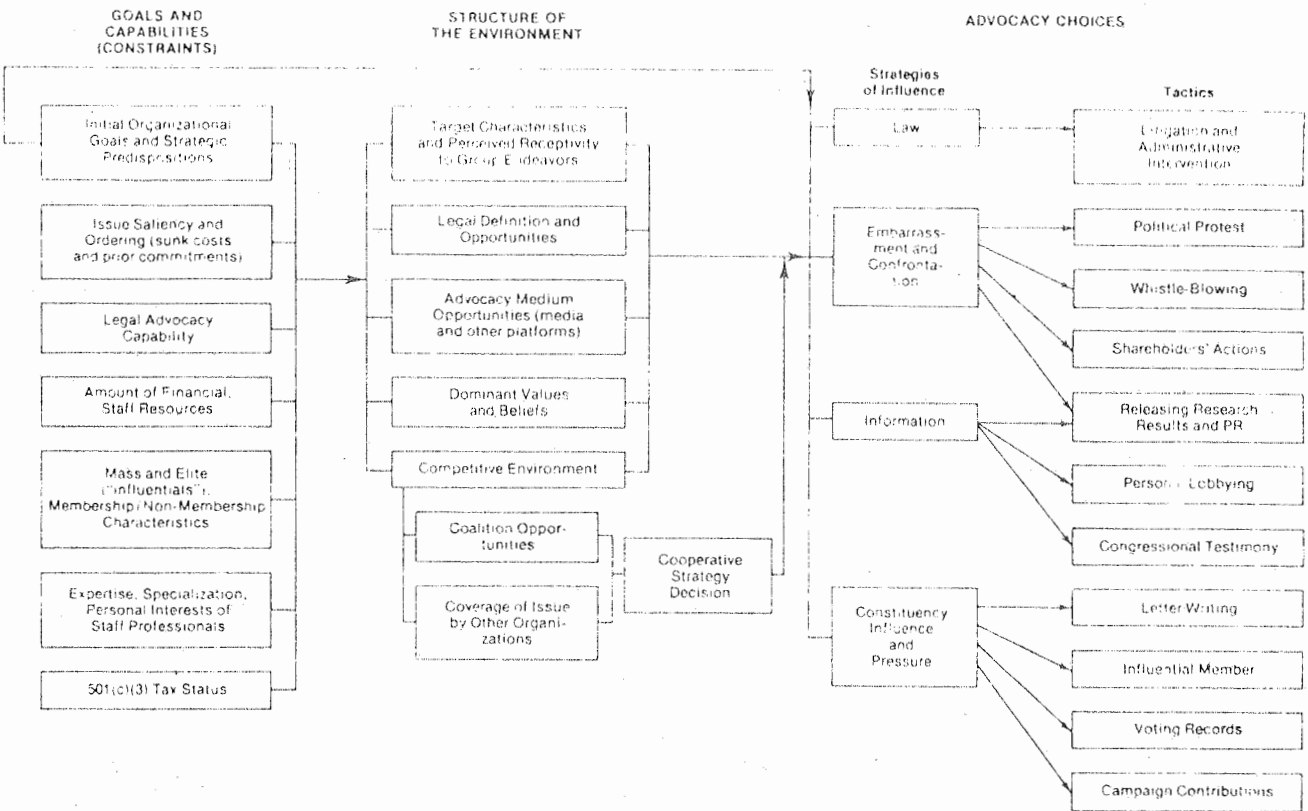
- (b) As conflict escalates, attitudes harden and become identified with particular individuals or groups. Pride then becomes an obstacle to moderation and two countervailing tendencies apply: a learning process occurs and tactics become more selective and sophisticated; but conflict may escalate to the point of unreason, and propaganda claims become distorted and unreliable¹⁷⁵. Such an occurrence may be rare, but once it happens, accord is almost impossible to achieve and decisions will be based more upon belief and stubbornness than factual evidence or pragmatic considerations.
- (c) Not all commentators view resources diplomacy and environmental struggles as zero-sum games. Gutman, for example, believes that natural resources management is an area where relative gains and losses occur and participants must make skilful use of negotiation tactics¹⁷⁶. Non-zero games are not generally capable of precise specification, nevertheless there is a need to be clear about terminology and options. The elements identified by Gutman include:
 - (i) use of veiled threats, involving capacity, credibility and depth of commitment;
 - (ii) menace, arising from capacity to cause costs or injury (including political costs), but weighed against possible counter-reaction; and

173 Gregory A., *The Price of Amenity*, *op. cit.*, pp. 296-307 and Kimber R., & Richardson J., *Defending the Environment*, *op. cit.*, pp. 212-225.

174 Dennis N., 'In Dispraise of Political Trust', in Sewell W.R.D., & Coppock J., (Eds.), *op. cit.*, pp. 15-25.

175 Note this tendency in the Lake Pedder case, described in Chapter 4.

176 Gutman G., 'Resources Diplomacy', *The Australian Quarterly*, Vol. 47, No. 1, March 1975, pp. 36-50.



Strategies and Tactics: A Decision-Making Framework

(Source: Berry J. *Lobbying for the People*, Princeton University Press, Princeton, N.J. 1977, p. 263)

DIAGRAM 5 : ADVOCACY TACTICS

- (iii) promise, relating to possible benefits, but highly dependent upon reality of perception¹⁷⁷.

Gutman also examines natural resources management from the point of view of communication problems between participants and graded forms of payoffs and losses in particular circumstances. He argues that three kinds of 'games' are being played simultaneously: an economic game (scarcity, value, competition and time); a power game (influence or coercion); and a security game (treaties, survival and protection)¹⁷⁸.

Gutman believes that much depends upon the participants' perception of the situation and the choice of possible reactions. His view is not Machiavellian, merely that one should recognise certain realities and act accordingly, after assessing options. Participants in environmental conflict need to consider carefully how their statements and actions will be interpreted by external interests and observers.

Moss argues that everybody is for an improved environment, the only conflict is about means. Moss makes a plea for 'environmental detente' and cites several cases of its application in America¹⁷⁹. The basic approach is for conflicting parties to go into conference in an attempt to resolve differences. Attempts at detente involve equal representation at the conference table, identification of issues and options by task forces, willingness to listen even when tempers become frayed and adherence to agreement. Initial meetings often prove difficult and a 'broker' may be required to persuade the protagonists to continue. Extreme elements will not tolerate the process or its results, but in many situations limited agreements appear feasible¹⁸⁰.

177 *Ibid*, pp. 38-40.

178 *Ibid*, p. 37. See also Banks M., *Resolution of Conflict*, Frances Pinter, London, 1981; Harrison R., *Pluralism and Corporatism*, Allen & Unwin, London, 1980.

179 Moss L.E., 'Beyond Conflict: The Art of Environmental Mediation', *Sierra*, The Sierra Club Bulletin, Vol.166, No. 2, March-April 1981, pp. 40-45.

180 Cocks D., & McConnell G., 'Environment and Conservation Issues of the Eighties', *BHP Journal*, No. 1, 1980, pp.48-57; 'There Doesn't Have to be a Loser', *Horizons USA*, (U.S. Information Service), No. 15, 1976, pp. 6-11.

Unfortunately, little experimentation with the technique has occurred in Australia so that conservation controversies continue to involve substantial conflict. Despite the depiction of zero-sum games, radical reform is unlikely to be achieved; most choices are made at the margin of the status quo and a maturation period may be required before innovative ideas become acceptable in society¹⁸¹. Environmental conflict is not a tidy process, but it does reflect the checks and balances of societal decision-making.

3.12 SUMMARY OF PART B

In Part B of the Chapter it has been argued that although some elements of a theory of environmental conflict may be identified, no definitive general paradigm has yet emerged. In analysing case situations of conservation controversies, the socio-political culture has considerable significance, since it constrains modes of operation within society and the change that may ultimately be achieved. The manner in which environmental issues become articulated and defined within the political arena also shapes their final outcome.

Turning more directly to the Australian jurisdiction, it is apparent that conservationists have employed a variety of strategies in attempting to influence resource management practices. Apart from the opposition of bureaucratic and corporate interests, there are institutional reasons why reform of environmental policies may not be easily achieved. Insofar as the dynamics of conservation conflict are concerned, protagonists undergo learning experiences, attempt to utilise persuasion, bargaining, threats and various forms of coercion, but run the risk that if escalation to unreason occurs, the outcome of environmental conflict is relatively unpredictable and is determined on political, not rational grounds.

PART C : PRINCIPAL CONCLUSIONS

The principal conclusions of Chapter 3 may be summarised as follows:

3.13 THE AUSTRALIAN CONSERVATION MOVEMENT

- (a) Environmentalism is not a new phenomenon in Australia. There is a long history of concern for the natural heritage, but widespread environmentalism has emerged mainly during the past two decades, both as a response to a growing interest in Australia's unique terrain and biota and as a reaction against certain aspects of resource exploitation;
- (b) Existing literature on the Australian conservation movement is rather superficial and over-generalised, depicting eco-activism as offbeat, middle-class and concerned with the protection of personal interest. This is a somewhat misleading assessment since Australian environmentalism assumes many forms and embraces many values, some of which are altruistic;
- (c) A detailed consideration of the Australian conservation movement reveals the complexity of its structure and operations. More than one thousand groups are involved, fitting a variety of categories ranging from nationally orientated institutions to specific issue societies, but also including many co-ordinative, research and support teams. These organisations vary widely in aims, membership, resources, leadership and operational style, but in common with most voluntary community groups, must devote a considerable proportion of their effort to maintaining membership and generating support funds. The principal obstacle they face is lack of recognition by government and the public as legitimate commentators on environmental affairs.

- (d) One major weakness is their failure to achieve alliances with other interest groups. On the other hand, considerable covert support for their aims appears to exist within the community and thus far they have largely thwarted attempts by opponents to denigrate the movement or subvert it through pseudo-conservation groups. As yet there is little interest in environmental political parties in Australia.

3.14 ASPECTS OF ENVIRONMENTAL CONFLICT

- (a) Elements of a theory of environmental conflict may be discerned within the literature of political science, public administration, planning and geography, but so far no substantive general theory appears to have emerged. In terms of evaluation of case situations, interest group theories, models of public participation and literature on policy analysis offer useful insights.
- (b) It may be postulated that a diversity of geographical, political, social and cultural factors will affect the form and characteristics of environmental conflict. The socio-political culture is important, because it defines what is feasible and acceptable within the political arena and the community. Protagonists in environmental conflict must come to terms with this constraint.
- (c) An issue-attention cycle would appear to exist within the community. In addition, whoever articulates and helps define the issue, influences the mode of resolution and outcome.
- (d) Australian conservation groups appear to have adopted a number of strategies in their efforts to achieve reform of environmental policy and natural resources management. These tactics will be analysed in detail in Chapters 4 to 7 inclusive.

- (e) Apart from the opposition of bureaucratic and corporate interests, there are institutional reasons why reform of Australian resources management practices may prove difficult to achieve. These reasons are also outlined in Chapters 4 to 7 inclusive.

CHAPTER 4

VALUES AND INFLUENCE IN PROJECT EVALUATION:

THE TASMANIAN ENERGY DEBATE

PART A : PARAMETERS OF STRATEGY FORMULATION4.1 INTRODUCTION

In a democracy, ultimate responsibility for resolving land-use conflict rests with the elected representatives of the people. It is parliament which ultimately determines whether minerals will be extracted from the sands of Fraser Island, whether uranium ores will be exported from Arnhem Land, whether constraints are needed on the woodchip industry in New South Wales, Western Australia or Tasmania, and whether national park areas should be established or revoked. But resource utilisation decisions are only democratically made if all options have been thoroughly explored and opportunities have been provided for the general public to comment, especially those individuals whose interests may be markedly affected by conservation and development programmes¹.

Determinations reached by the legislature are based primarily upon advice received from public servants, advisers and lobbyists of many kinds. Conservationists would claim that in formulating government policies and programmes:

- (i) not all options are adequately investigated;
- (ii) despite claims of public service neutrality, decision processes are heavily weighted in favour of particular private interests; and
- (iii) undue deference is shown to professional opinion, leaving inadequate opportunities for public participation.

1 Gilpin A., *The Australian Environment : Twelve Controversial Issues*, Sun Books Ltd., Melbourne, 1980; Saddler H., *Energy in Australia : Politics and Economics*, Allen and Unwin, Sydney, 1981; Bambrick S., *Australia's Minerals and Energy Policy*, Australian National University Press, Canberra, 1979; Sinden J. (Ed.), *The Natural Resources of Australia : Prospects and Problems of Development*, Angus and Robertson, Sydney, 1972.

Disputes thus arise about the validity or comprehensiveness of project evaluation methodology and the impartiality or otherwise of review and authorisation procedures within the public sector².

In this Chapter we shall examine the accuracy or otherwise of the environmentalists' claims of deficiencies in project assessment and analyse the tactics adopted by conservationists when major resource controversies arise. The case selected for examination concerns energy strategy in Tasmania during the period 1960-1980. Controversy arose about proposed hydro-electric development in a wilderness area of the island State, with eco-activists challenging project assessments prepared by a major public corporation, the Hydro-Electric Commission of Tasmania. The longitudinal assessment permits one to monitor environmental conflict over an extensive time horizon, thus changes in orientation and tactics can be assessed. The Lake Pedder controversy and the Lower Gordon-Franklin Rivers debate presented in this Chapter are fairly representative of a variety of conflicts about water resources development in Australia³.

A starting point is to refer to Chapter 3, wherein it was claimed that Australian environmentalists tend to adopt four basic strategies in their struggle to achieve environmental reform:

2 Eckstein O., *Water Resources Development*, Harvard University Press, Cambridge, Mass., 1961.

3 See, for example, Davidson B., *Australia Wet or Dry?*, Melbourne University Press, Melbourne, 1969; Public Interest Research Group, *Legalized Pollution*, Queensland University Press, Brisbane, 1972; Langford-Smith T., and Rutherford J., *Water and Land: Two Case Studies in Irrigation*, Australian National University Press, Canberra, 1966; Frith H., and Sawyer G., (Eds.) *The Murray Waters: Man, Nature and a River System*, Angus and Robertson, Sydney, 1974.

- (a) they seek to have narrowly specialised forms of project evaluation methodology replaced by multi-objective planning, encompassing social and ecological variables, as well as technical and economic considerations;
- (b) they lobby in a variety of ways for modification or revocation of extant policies and legislation governing resource utilisation or conservation measures. Attempts may be made to introduce innovative programmes or statutes;
- (c) steps are taken to try to strengthen and expand amenity rights in law; and
- (d) intergovernmental relations are exploited as a means of providing checks and balances on particular interests and practices. 4

Here we are concerned with the first strategy, namely challenging project evaluation methodology, noting the key role technocrats tend to play in government decision processes and the difficulties likely to be encountered by conservationists in penetrating the bureaucratic system to challenge the legitimacy and acceptance of professional values and viewpoints⁵. It is during the initial phases of option identification that important judgments are reached within public agencies about likely outcomes and possible priorities for resource conservation and development⁶. Technocrats are normally in an extremely influential position to open or foreclose opportunities, or influence policies they may have helped create. It is this primary role and in particular, the potentially dangerous application of narrow professional values, that eco-activists question⁷.

4 It is not claimed that these are the only possible strategies, but rather that case-evidence from a variety of sources indicates that the methods listed are commonly employed.

5 Lyden F., Shipman G., and Kroll M., (Eds.), *Policies, Decisions and Organizations*, Appleton-Century-Crofts, New York, 1969, Chapters 1, 7 and 8.

6 Steiner P., 'Choosing among Alternative Public Investments in the Water Resource Field' in Smith S., and Castle E., (Eds.), *Economics and Public Policy in Water Resources Development*, Iowa State University Press, Ames, 1964, pp. 34-57.

7 Boulding K., 'The Economist and the Engineer : Economic Dynamics of Water Resource Development' in Smith S., and Castle E., (Eds.), *Economics and Public Policy in Water Resources Development*, op. cit., pp. 82-92.

In considering the stance taken by the environmentalists it is necessary to investigate two matters:

- (i) the characteristics of project evaluation methodology and project authorisation procedures; and
- (ii) to determine whether the conservationists are accurate in their claims and if so, whether they use effective tactics to secure reform of resource management practices involving project analyses and formal legitimisation.

Before considering the empirical evidence in detail, it is desirable to consider the first item, namely important aspects of project evaluation methodology.

4.2 THE SEARCH FOR RATIONALITY IN PROJECT EVALUATION

One of the central characteristics of attempts to formulate resource management principles is a belief in the ecological unity and interrelatedness of nature. A grail-like search has developed within the public sector for clarity, neatness and order in project evaluation and administrative procedures to cope with this environmental complexity⁸. Despite this quest, the tendency has been for increased numbers of functionally specialised departments to emerge, each public authority jealously guarding its limited jurisdiction with missionary zeal. Lack of co-ordinated action and narrowness of perspective are claimed to be two of the distinguishing characteristics of resource management today⁹. Each department or corporation may become so intent on defending its own interests that there is a substantial risk of community objectives being overlooked. Some agencies develop such a close affinity with their own particular clientele that they end by serving vested interests rather than the community in general. Such tendencies exist throughout the spectrum of public service operations, but seem particularly exacerbated in resource management operations¹⁰.

8 Maass A., Hufschmidt M. et. al., *Design of Water Resource Systems*, Macmillan, London, 1962.

9 Sewell W.R.D. 'Broadening the Approach to Evaluation in Resource Management Decision-Making', *Journal of Environmental Management*, Vol. 1, No. 1, 1973, pp. 33-60.

10 For discussion see Kaufman H., *The Forest Ranger : A Study in Administrative Behaviour*, John Hopkins Press, Baltimore, 1960.

Only in recent years, with the gradual establishment of environmental protection legislation and central planning bodies, have somewhat more enlightened and broader perspectives emerged. Yet balkanized functions and hydra-headed planning still hinder effective co-operation between agencies and prevent the establishment of highly integrated programmes¹¹. Despite ongoing attempts to achieve more 'rational' (logical) modes of project evaluation, many resource management procedures appear to be ad-hoc, exploitative, and rather narrowly orientated, generating unanticipated consequences and considerable spillover costs to society¹².

Coupled with the above phenomenon is a belief amongst technocrats that if only the scope and content of project evaluation can somehow be increased, then disagreements about natural resources utilisation will diminish. This simplistic assessment is based upon an assumption that scientific rationality will solve most human problems; it completely fails to recognise the diverse social and political values extant in public decision situations and entirely ignores differences of perception about the relationship of man and Nature¹³. The proposition that improved feasibility analysis will reduce conservation controversies is dubious for another reason. As evaluation becomes more complex (i.e. more variables are encompassed) realism may grow, but the scope for debate about assumptions and implications will increase. Conditions specified at the outset of investigations, concepts and terminology, the scope and accuracy of information collected, and the interpretation

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- 11 Fox I. 'Policy Problems in the Field of Water Resources', in Kneese A., and Smith S., (Eds.), *Water Research*, John Hopkins Press, Baltimore, 1966.
 - 12 McMaster J & Webb G. (Eds) *Australian Project Evaluation*, ANZ Book Co., Sydney, 1978, Chapter 10.
 - 13 McKean R., *Efficiency in Government through Systems Analysis*, John Wiley and Sons, New York, 1958; Smith G.H. (Ed.), *Conservation of Natural Resources*, Wiley and Sons, New York, 1965; Firey W., *Man, Mind and Land*, The Free Press, Glencoe, Illinois, 1960.

of results, are all open to question¹⁴. In environmental conflict the only query is whether environmentalists will realise this fact and prove capable of testing the analytical framework.

There are other vulnerabilities, however, which neither technocrats nor their adversaries may readily perceive, but which are occasionally present in project investigations. Sometimes analysts inadvertently extend the scope of evaluation beyond the intended purpose and limits of the technique employed. A typical example arises in respect of cost-benefit analysis, which was initially intended to compare projects of a similar function but of varying magnitude and layout, in order to discover the proposal yielding the highest net benefit per specified level of investment¹⁵. The technique is quite inappropriate in cases where projects would cause structural changes in regional economics, or where projects of dissimilar function are being compared¹⁶. In many instances important social and ecological considerations are omitted from analysis on grounds that they cannot be financially measured, or are viewed as digressions from technical considerations¹⁷.

Conservationists may therefore be correct in viewing the search for 'logical' project evaluation with some suspicion and cynicism, but the important question is whether weaknesses in project evaluation and authorisation are such that the claims of technical experts can be effectively challenged within the political and administrative arena.

14 James L., and Lee R., *Economics of Water Resource Planning*, McGraw-Hill, New York, 1971.

15 Howe C., *Benefit-Cost Analysis for Water Resources Planning*, American Geophysical Union, Washington, D.C., 1971.

16 Marglin S., *Public Investment Criteria*, Allen and Unwin, London, 1967.

17 Maass A., *Muddy Waters*, Harvard University Press, Cambridge, Mass. 1951.

Patently many project investigations are highly complex in character and not easily explained to the layman or in the media, especially if futurity rather than immediate impact is concerned. But aside from this issue of scope of analysis and the applicability of certain techniques, there are many other aspects of project evaluation which warrant discussion.

4.3 DEFICIENCIES OF PROJECT EVALUATION METHODOLOGY

4.3.1 The Scope and Objectives of Cost-Benefit Analysis

The traditional technique of so-called 'rational' modes of project evaluation is cost-benefit analysis. Prest and Turvey argue that cost-benefit analysis is a practical way of assessing the desirability of projects where it is important to take a long view in time horizon and a wide view in the sense of enumeration of all relevant costs and benefits¹⁸. In practice, the technique is a means of assessing the economic utility of a public investment project and thus is an economic efficiency criterion attempting to gain maximised net benefits from capital outlay¹⁹. The technique can be used to indicate whether a specific expenditure should be undertaken, but it may also be used to determine the appropriate scale of investment and thus the optimum size of a specific project as well as the product mix, capital intensity and other aspects of the project design. The technique appears to have originated in France in the 1840s and although primarily orientated towards evaluation of public infrastructure facilities, such as roads, dams and buildings, its application has now been extended into various fields of human activities such as health,

18 Prest A., and Turvey R., 'Cost-Benefit Analysis : A Survey', *Economic Journal*, Vol. LXXV, No. 3., (London), December 1965, pp. 683-728.

19 Mishan J., *Cost-Benefit Analysis*, Allen and Unwin, London, 1971.

education, welfare and cultural-recreational needs²⁰.

Conceptually, cost-benefit analysis is simple: it is an attempt to forecast the probable timestream of anticipated costs and benefits accruing from a particular investment, but this exposition conceals many dangers and inconsistencies²¹. Environmentalists are concerned about the facade of certainty and accuracy which cost-benefit analysis portrays; in the wrong hands the technique may become a vehicle for bias in reportage and inadvertent economic repression of some sections of the community. Important questions therefore arise about the relevance, application and reliability of the technique, particularly when there is any risk of political expediency, technocratic viewpoints or secrecy within government.

The essential first point to stress is that cost-benefit analysis involves quantification of monetary values within an economic efficiency framework. In this sense it is bound to upset eco-activists who have scenic amenity or other ecological considerations in view. The technique does not happily accommodate qualitative aspects unless expressed in dollar terms; moreover it studiously avoids consideration of income distribution effects or equity considerations²². There is a substantial literature on this impasse by authors such as Wildavsky, Self, Mishan,

20 Newton T., (Ed), *Cost-Benefit Analysis in Administration*, Allen and Unwin, London, 1972; Turvey R., *Economic Analysis and Public Enterprises*, London, 1971; Clawson M., *Outdoor Recreation*, John Hopkins Press, Baltimore, 1966.

21 See Discussion in Commonwealth Treasury's *Supplement to the Treasury Information Bulletin : Investment Analysis*, Canberra, July, 1966.

22 Sugden R., and Williams A., *Principles of Practical Cost-Benefit Analysis*, Oxford University Press, London, 1978. Some attempts are being made to overcome deficiencies in social and ecological assessment. See Abelson P., *Cost-Benefit Analysis and Environmental Problems*, Saxon House, Westmead, Hants, 1976.

Krutilla, Kalter and others²³. Other authors, such as Prest and Turvey or Burkhead and Miner, are more cautiously optimistic, persuasively arguing that improvements in application are feasible and that some equity considerations can be inbuilt²⁴. Moreover, once the weaknesses of cost-benefit analysis are explicitly recognised, the technique provides one of the few available methods of social choice and at least forces open identification of options and implications. Still other analysts, such as Maass and Kalter, call for explicit weighting of equity factors, while further authors claim that the technique is best left in 'pure' form, with parliament as the forum in which equity or other social considerations are adjudicated²⁵. Environmentalists remain unconvinced that equity issues will be so weighed, but are equally dubious about the result of leaving evaluation to economists.

Besides this confusion and debate about the potential social effects of cost-benefit decisions, there is another important aspect relating to application of the technique. As previously noted, cost-benefit analysis was initially intended to provide comparison between

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- 23 Wildavsky A., 'The Political Economy of Efficiency: Cost-Benefit Analysis, Systems Analysis and Program Budgeting', in Davis J.W. (Ed), *Politics, Programs and Budgets*, Prentice-Hall, Englewood Cliffs, N.J. 1969; Self P., *Econocrats and the Policy Process*, Macmillan, London, 1975; Mishan J., *Cost-Benefit Analysis*, *op. cit.*; Krutilla J.V., and Eckstein O., *Multiple-Purpose River Development*, John Hopkins Press, Baltimore, 1958; Kalter R., and Stevens T., 'Resource Investments, Impact Distribution and Evaluation Concepts', *American Journal of Agricultural Economics*, Vol. 53, No. 2, May 1971, pp. 206-215.
- 24 Burkhead J., and Miner J., *Public Expenditure*, Macmillan, London, 1971, (Chapter 7, 'Cost-Benefit Analysis'), pp. 206-249.
- 25 Maass A., 'Benefit-Cost Analysis : Its Relevance to Public Investment Decision-Making', *Quarterly Journal of Economics*, Vol. LXXX, May 1966, pp. 208-226; Kalter R., and Stevens T., 'Resource Investments, Impact Distribution and Evaluation Concepts', *American Journal of Agricultural Economics*, *op. cit.*

project layouts of roughly similar dimension and type; it was not intended for comparison between dissimilar projects and is invalid in situations where the scale of a project is such as to cause structural economic change in a region. In the latter case, larger scale and more detailed regional economic models are necessary and may involve computer simulation of a variety of effects²⁶. As criticism of cost-benefit studies has mounted, technologists (or 'econocrats', as Self refers to them) have attempted to overcome objections by 'tacking on' a variety of supplementary studies, such as environmental impact assessment, social impact identification, usually of descriptive form, planning balance sheets, critical path studies and the like²⁷. Patently the analysts believe that this constitutes multi-objective planning of sophisticated form, but in most instances it is the cost-benefit evaluation which receives the bulk of attention, with the remaining subjective assessments hastily appended to appease decision-makers and persuade the public. Even if the objection of uneven treatment is overcome, the heroic assumptions and lack of recognition of interdependence among variables places option identification and implication assessment at risk. As Nash, Pearce and Stanley point out, there is not any 'one best way' of carrying out project evaluation and it is always necessary to know why a particular technique was used and what assumptions underpin its application, as much as to know what the evaluation purports to convey²⁸. There are dangers of erroneous

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- 26 Maass A., Hufschmidt M., et. al., *Design of Water Resource Systems*, op. cit.; Institution of Civil Engineers (U.K.), *An Introduction to Engineering Economics*, W. Clowes and Sons, London, 1969.
- 27 Lichfield N., Kettle P., and Whitbread M., *Evaluation in the Planning Process*, Pergamon Press, London, 1975; O'Riordan T., and Hey R., (Eds.) *Environmental Impact Assessment*, Saxon House, Westmead, Hants., 1976.
- 28 Nash C., Pearce D., and Stanley J., 'Criteria for Evaluating Project Evaluation Techniques', *Journal of the American Institute of Planners*, March 1975, pp. 83-89. See also Lichfield N., 'Cost-Benefit Analysis in Plan Evaluation', *Town Planning Review*, Vol. 35, 1964, pp.160-169.

logic in both the process of analysis and the interpretation of results.

4.3.2 Internal Deficiencies

In addition to questions about the relevance and application of cost-benefit analysis, conservationists are aware of a substantial body of literature describing internal weaknesses and the value judgments called for in carrying out detailed cost-benefit studies. Cartwright outlines the dilemma thus:

'... The conceptual narrowness of traditional cost-benefit analysis poses a dual problem. Public decision-makers are observing that an increasing amount of attention in project selection must be given to issues that are not documented or analysed by their professional project analysts. Derived from this trend, the project analysts - that is, the engineers and economists, are finding that their analytical methods are becoming less relevant to decision-making in a world that will no longer accept economic growth as a dominant goal in national economic policy'. 29

Try as they will to bridge this gap, project analysts face a formidable problem : cost-benefit analysis does not cope well with a variety of technical and economic issues which are essential elements of project decision-making. A non-exhaustive list of the problems is as follows:

- (a) identification, enumeration and valuation of costs and benefits;
- (b) issues relating to externalities;
- (c) discount rates;
- (d) project time horizons;
- (e) allowances for contingencies and inflation;
- (f) risk and uncertainty;
- (g) pricing problems;
- (h) capital borrowing and debt servicing.

29 Cartwright R., 'Simultaneous Consideration of Economic and Ecological Goals in Public Project Evaluation and Selection'. Paper presented at Conference on Australian Economics, Adelaide, June 1972, p. 3.

(a) Enumeration of Costs and Benefits

Cost-benefit analysis differs from normal financial assessment in that social costs and benefits are involved. Although it may appear a simple assignment to identify the gains and losses from any particular project, in practice it is sometimes difficult to specify the ultimate beneficiaries or losers and the degree to which they are affected³⁰. This is especially the case where long time horizons are involved and final impacts may not accrue for several years or be staged in some manner dependent upon increments to the system. A further complication arises in the form of joint costs and benefits; situations where gains or losses may have to be apportioned or where the result of the project is to create situations where gains and losses accrue simultaneously³¹. Errors in logic may easily occur, with costs and benefits either double counted or inadvertently omitted, thus the analyst must be alert to all such prospects. Further issues arise if compensatory or transfer provisions exist, in a mix of pecuniary and non-pecuniary interests; moreover marginal adjustments may be as relatively important as absolute or average values. In short, the enumeration of social costs and benefits is by no means as simple as might first appear, hence legitimate disagreement arises between environmentalists and analysts as to what are the pertinent variables and how they should be assessed.

(b) Valuation of Costs and Benefits

During periods of relatively stable and sustained economic growth, actual valuation of costs and benefits might not appear

30 Walsh H., and Williams A., *Current Issues in Cost-Benefit Analysis*, CAS Occasional Paper 11, HMSO, London, 1971.

31 *Ibid*, pp. 5-6. Note also Dorfman R., (Ed.), *Measuring Benefits of Government Investments*, Harvard University Press, Cambridge, Mass, 1965; Goldman T., (Ed.), *Cost-Effectiveness Analysis*, Praeger Publishers, New York, 1967.

as a significant problem, yet the literature reveals some preoccupation with aspects of inflation (however small) and debates have arisen as to whether the discount rate of projects should be modified to cover such uncertainty, or whether the detailed timestream of costs and benefits should be adjusted to account for anticipated inflationary pressures³². No definitive answer is evident from commentators, but Little and Mirrlees, in their well-known exposition on third world countries, do suggest the adoption of shadow pricing and other adjustments whenever valuations do not reflect the economic realities of the market place, or fail to recognise artificialities in supply, demand or pricing situations, arising from social instability or political manipulation³³. The entire problem of valuation of costs and benefits takes on new dimensions not easily avoided or resolved, when inflation reaches substantial dimensions (say six percent per annum or greater) and uncertainties exist as to the likely future pattern. In such circumstances some form of sensitivity analysis is usually adopted and may give some feel for the situation, but if fluctuations are substantial, little guidance exists for decision-making³⁴.

Although there is a growing but inconclusive literature about cost-benefit specification under uncertainty, other less discussed factors exist which render some aspects of valuation equally dubious. In many instances, government policies impinge on supply,

32 Webb M., 'Rate of Discount and Inflation with Particular Reference to the Electricity Supply Industry', *Oxford Economic Papers*, Vol. 18, No. 3, November 1966, pp. 352-358; Hanke S., Carver P., and Bugg P., 'Project Evaluation During Inflation', in Aldine Annual, *Benefit-Cost and Policy Analysis*, Aldine Publishing Company, Chicago, 1974, pp. 325-334.

33 Little I., and Mirrlees J., *Project Evaluation and Planning for Developing Countries*, Heinemann, London, 1974.

34 Complications arise when the project time horizon is extensive, e.g. 30-60 years in forestry and water resource projects.

demand and pricing through mechanisms such as tariff protection and subsidies, taxation and investment allowances, wage and employment guidelines, controls on capital inflow and foreign investment, regional assistance and the like³⁵. In short, neither capital investment nor factor markets operate under free competition and the question may arise as to whether costs and benefits truly reflect social realities. Project analysts tend to fight shy of valuation problems, either by ignoring anything other than current prices, or by assuming that whatever inflationary pressures exist, the impact on costs and benefits will be approximately equal, or that the general drift of the economy over time will equalise variations³⁶. Given that timestreams of costs and benefits may vary widely, dependent upon the kind of project (e.g. hydro-electric projects or thermal plants), blanket treatment of large scale and sometimes uncertain inflation is highly suspect. This valuation problem is not only obscure but complex, and although dimly perceived by environmentalists and bureaucrats, receives scant attention in practice. It is a further indicator that cost-benefit studies have hidden inherent weaknesses.

There is one additional criticism which renders cost-benefit analysis anathema to conservationists, but remains little recognised in political and administrative circles. Project evaluation techniques tend to adopt an explicit time horizon orientated towards 'imaginable' lifetimes both of human beings and physical facilities. Fifty years is regarded as a long time horizon by planners, but it is often claimed that three years seems an

35 Schultz C.L., *The Politics and Economics of Public Spending*, Brookings Institution, Washington, D.C., 1968.

36 See Chapter 8, 'Public Expenditures - Considerations of Efficiency and Equity', in Haveman R., *The Economics of the Public Sector*, Wiley and Sons, New York, 1969 ; Margolis J., *The Analysis of Public Output*, National Bureau of Economic Research, Washington, D.C. 1970.

eternity in politics, indeed one week is a considerable period in survival terms. Yet scientists and environmentalists may have literally thousands of years in mind when ecological issues are at stake, i.e. there are significant differences of perspective about 'the long run' and our obligation to distant generations. The North American Indian chief summarised the problem when he spoke of 'holding the land in trust for generations yet unborn'. As Fisher and Krutilla have graphically demonstrated in the Hells Canyon case and other examples, cost-benefit analysis simply does not cope well with problems of long-run ecological scarcity or irreversibility³⁷. Here again, factors are identified which cost-benefit analysis tends to obscure or ignore.

(c) Externality Issues

In addition to the primary costs and benefits of any project, a wide range of secondary or third order effects may arise; the question then posed is how far such impacts should be evaluated and whether it is feasible to do so. Externalities or spillover effects of projects may be diverse in character and the analyst is usually constrained by time and budget as to what depth of investigation can occur. The general tendency is to focus on primary effects only and treat each identified cost or benefit separately, notwithstanding that many of the variables are interrelated and may create problems elsewhere in the social and economic system³⁸. The externalities dilemma is not easily

37 Fisher A., and Krutilla J.V., 'Valuing Long Run Ecological Consequences and Irreversibilities', *Journal of Environmental Economics and Management*, Vol. 1, 1974, pp. 96-108.

38 Pearce D., *Environmental Economics*, Longman, London, 1976; Stockfish A., *Measuring the Opportunity Cost of Government Investment*, Institute of Defense Analysis, Arlington, Va., 1969.

resolved, the analyst must attempt to be comprehensive in identifying the spillover effects of projects, yet limits have to be drawn in any feasibility study.

(d) Discount Rates

As Mishan, Prest and Turvey and a host of other commentators have pointed out, perhaps the central problem of cost-benefit analysis is the choice of an appropriate discount rate by which to translate the anticipated timestream of costs and benefits into net present values, so that valid comparisons between options may be carried out³⁹. Even a one or two percent variation in discount rate can cause massive shifts in valuation, hence selection of an appropriate discount rate becomes crucial. In purely theoretical terms, the discount rate is virtually project-specific, as Arrow, Baumol and other researchers have demonstrated, but this is little comfort or guidance to practitioners because the elements leading to discount rate determination are individually obscure and sometimes contradictory⁴⁰. In this counsel of despair the practitioner takes refuge in a simple pragmatic judgment: to use the long-term government bond rate as a proxy indicator of the cost of borrowing and to add a dash of sensitivity analysis to determine what adjustment of the discount rate would bring. Plausible (and simplistic) as this approach is, it conceals a host of unanswered questions.

39 See Prest A., and Turvey R., 'Cost-Benefit Analysis : A Survey', *op. cit.*, pp. 697-698; Herfindahl O., and Kneese A., *Economic Theory of Natural Resources*, Charles E. Merrill Publishing Co., Columbus, Ohio, 1974.

40 Feldstein M., 'The Social Time Preference Discount Rate in Cost-Benefit Analysis', *Economic Journal*, Vol. LXXIV, June 1964, pp.360-379; note also discussion in Fisher A., Krutilla J., and Cichetti C., 'Alternative Uses of Natural Environments : The Economics of Environmental Modification' in Krutilla J., (Ed.), *Natural Environments : Studies in Theoretical and Applied Analysis*, John Hopkins Press, Baltimore, August 1974.

Literature on investment analysis reveals a number of potential discount rates or relevant interest rates which might be used in project evaluation:

- (i) the open market private interest rate of capital borrowing;
- (ii) the long-term bond rate on public securities;
- (iii) a social time preference rate which purports to represent sacrifice of current consumption in favour of anticipated future benefits from capital investment;
- (iv) the opportunity cost represented by acceptance of project A by sacrifice of project B or other options foregone; and
- (v) discount rates reflecting aspects of the above, amalgamated as weighted preferences on some subjective basis, but also perhaps incorporating risk factors and probabilities.⁴¹

It is apparent that the matter of discount rate selection is somewhat subjective and contentious on a variety of grounds. Despite the claim one should recognise that choice of a discount rate as project-specific, countervailing opinion exists, moreover empirical evidence suggests that grave inconsistencies occur within and between government agencies⁴². For this reason and because public corporations are often involved, some commentators argue for the adoption of a particular internal rate of return, usually set by treasury officials, as in the United Kingdom⁴³.

41 For discussion see Perry C., 'Discounting Australian Public Projects'. Paper presented at Fourth Annual Conference of Australian Economists, Canberra, August, 1974.

42 Commonwealth of Australia, *Review of the Continuing Expenditure Policies of the Previous Government*, PP. 143 (1973), The Government Printer, Canberra, 1974, pp. 25-27.

43 For discussion see United Kingdom White Paper, *The Financial and Economic Obligations of the Nationalised Industries*, HMSO, London, April, 1961; also White Paper, *Nationalised Industries: A Review of Economic and Financial Objectives*, HMSO, November 1967; Pryke R., *Public Enterprise in Practice: British Experience over Two Decades*, McGibbon and Kee, London, 1971.

Other analysts point out that government borrowing rates are often deliberately set low, either because captive institutional lenders are involved or because fiscal adjustment of the economy is involved⁴⁴. In either case, the commonly adopted long-term government bond rate may prove an inappropriate discount rate because it does not truly reflect the societal cost of scarce capital resources.

(e) Time Horizons, Risk and Uncertainty

Despite claims by technocrats of confidence about options, the pattern of subjective judgments becomes more apparent the more one scrutinises other aspects of project evaluation. In carrying out cost-benefit analyses choices have to be made about estimated project service life and patterns of usage, contingency allowances (often substantial) for unknowns in major civil engineering works, probability assessments in prognostic hydrology or other forecasts of system operation patterns or simulation of uncertain data situations⁴⁵. Although computers now assist data handling, output is only as good as the quality of input and frequently there are significant shortages of relevant planning information in Australia⁴⁶. Although probabilities can frequently be assigned to gain some 'feel' for the problem, some uncertainty will always remain, particularly in ecological situations with which project analysts are usually unfamiliar. The penalties (implications) of wrong-guessing need to be recognised.

44 Mathews R.L., *Public Investment in Australia*, Cheshire, Melbourne, 1967; Bradford D., 'Constraints on Public Action and Rules for Social Decision', *American Economic Review*, Vol. LX, No. 4, 1970, pp. 642-654.

45 Askew A.J., 'Consideration of Risk and Uncertainty in the Study of Water Resource Systems', *Civil Engineering Transactions*, Institution of Engineers, Australia, Paper 3396, 1975, pp. 97-99.

46 Regional information is now considerably improved, but not necessarily in a form suitable for planning purposes. See Australian Academy of Science, *Water Resources Use and Management*, Melbourne University Press, 1964; Munro C.H., *Australian Water Resources and their Development*, Angus & Robertson, Sydney, 1974.

be interesting to see whether the proposed freedom of information literature will improve this situation⁴⁹.

(g) Capital Borrowing and Debt Servicing

Cost-benefit analysis is an aid to decision-making, i.e. the primary intention is to permit ex-ante evaluation of options. Yet prospects of capital raising and debt servicing need to be considered before final commitment occurs. Evaluation is now rendered more complex not only by problems of capital scarcity and inflationary pressures, but also because agencies are now more reliant upon infrastructure borrowing in overseas markets and some internal funding to supplement Loan Fund appropriations⁵⁰. Doubts exist as to the desirable mix of 'internal' and 'external' capital borrowing and the attitude to servicing of long-term debt. These matters do not seriously impede cost-benefit assessment, but do add to the number of variables which must be carefully considered.

4.4 PROFESSIONAL VALUES, ETHICS AND ACCOUNTABILITY

As the information recorded above indicates, there are many aspects of project evaluation potentially available to eco-activists who wish to challenge project proposals within the political arena. Yet it is debatable to what degree the eco-activists are competent in dialogue about project assessment, moreover conveying such information to politicians and the public in a convincing manner may not prove a simple assignment. Before examining some empirical evidence to support

49 Spigelman J., *Secrecy : Political Censorship in Australia*, Angus and Robertson, Sydney, 1972; Commonwealth of Australia, Senate Standing Committee on Constitutional and Legal Affairs, *Freedom of Information*, PP.272 (1979), Australian Government Publishing Service, Canberra, 1979.

50 Patience A., and Head B., (Eds.) *From Whitlam to Fraser*, Oxford University Press, Melbourne, 1979, Chapters 2 and 3; Mathews R.L., *Australian Federalism 1979*, Centre for Research on Federal Financial Relations, Australian National University, Canberra, 1980; Summers J., Woodward D., and Parkin A., *Government, Politics and Power in Australia*, Flinders University Press, Adelaide, 1979.

or reject these speculations, it is necessary to point out that in challenging technical studies, the environmentalists are likely to encounter hostile countervailing reaction from professional groups within the community. While it is not intended to question the integrity of so-called experts, their competence and outlook are being challenged in some respects and it is predictable that sharp confrontation will be created. As indicated in Chapter 2, acute differences in values and attitudes arise between groups favouring the ecocentric and technocentric perspectives, hence environmental conflict is induced.

Central to the issue of how development options are identified, presented and justified, is the notion of professional values. 'Values' are here defined as the inner beliefs and attitudes which govern perceptions of society and reactions to situations, hence conditioning action⁵¹. Value theorists point to the complexity of the phenomenon but tend to assert that values are established and transformed by three principal factors: biological inheritance, education, and experience in life⁵². Why should professional values play such a dominant role in public investment decision-making and environmental management? Simply through the key role of specialists of diverse kinds, but principally the professions of engineering, economics and planning.

In theory, the code of ethics of each profession should ensure that the highest priority and commitment is given to the welfare of the community. But extremely narrow perspectives, inculcated by training and work environment, often overshadow tolerant perceptions of society, and the technocrat's role as an employee not only limits the prospect

51 Rescher N., *An Introduction to the Value Theory*, op. cit., pp. 9-11; Parsons T., 'Values, Motives and Systems of Action' in Parsons T., and Shils H. (Eds), *Towards a General Theory of Action*, Harvard University Press, Cambridge, Mass., 1951, pp. 163-269.

52 Baier K., and Rescher N., (Eds.), *Values and the Future : The Impact of Technological Change on American Values*, Free Press, New York, 1968.

of outspoken comment or alliance with societal interests external to the bureaucracy, but also provides a shield of anonymity sufficient to ensure that accountability for decisions is nicely diffused⁵³.

In the last resort, anger or ethics may dictate that analysts should resign their posts if there are circumstances or judgments they cannot accept, but it is a brave man who makes that choice, especially if job mobility is limited.

Although engineers, planners and other technologists view themselves as the shock troops of progress, thrusting forward economic growth and innovative technologies, this view is not shared by all commentators, especially conservationists. Christopher-Jones, for example, argues that control by technocrats over the pattern, timing and extent of data used for decision-making is exceedingly dangerous, particularly when the professions control entry standards, curricula, and 'approved methods', so that individuals become imbued with an apparatus of competence, objectivity and reliability which really conceals extremely narrow orientations and many deficiencies of information⁵⁴. He is echoing Illich who quotes Bernard Shaw's claim that '... every profession is a conspiracy against the laity.'⁵⁵ Apart from the dangers of the 'closed shop' trade-union approach, professions may constitute a form of imperialism, in that knowledge is power, and technology may be used to economically subjugate the less sophisticated members of society through the displacement or value of labour. David Noble makes much of this claim, demonstrating the manner

53 Eversley D., *The Planner in Society*, Faber, London, 1973. Goodman R., *After the Planners*, Penguin Books, Harmondsworth, 1972; Marcuse P., 'Professional Ethics and Beyond; Values of Planning', *Journal of the American Institute of Planners*, Vol. 42, No. 3, 1976, pp.264-273.

54 Harris B., 'The Limits of Science and Humanism in Planning', *Journal of the American Institute of Planners*, Vol.33, Sept.1967, pp. 324-335.

55 Illich I., 'The Professions as a Form of Imperialism', *New Society*, London, 13 September 1973, pp. 633-634.

in which architects and planners have become the unwitting tools of city development and environmental attrition, by preoccupation with physical buildings and landscape modification, while ignoring the social consequences of their actions⁵⁶. Goodman's startling polemic After the Planners and Davies's The Evangelistic Bureaucrat fit much the same mould⁵⁷. David Noble argues that engineers have long been the unwitting servants of capitalism, imposing high social costs on society, while believing they are 'value free', or brushing aside 'political' questions on the grounds that their role is limited to 'nuts and bolts' decisions.

There is also the 'Auschwitz dilemma' to consider, i.e. a decision as to how wide the scope of any investigation should be and who will accept responsibility if moral laws and ideological viewpoints are implicitly involved⁵⁸. It is one of the great tragedies of present day life that we condone increasing specialisation and compartmentalisation of human knowledge in an era when the interdependency of man and his environment is being increasingly demonstrated. This places the technologist under considerable stress, for he must decide whether his analysis will encompass solely his own area of expertise, leaving others to decide social or other community issues, or whether he will attempt to incorporate economic and environmental values into his analysis, leaving himself open to a charge of dabbling in matters outside his competence or jurisdiction⁵⁹. It is a particularly fine point as to how these competing demands are to be balanced, for the abdication of

56 Noble D., *America by Design; Science, Technology and the Rise of Corporate Capitalism*, Alfred Knopf, New York, 1977.

57 Goodman R., *After the Planners*, op. cit., Davies J., *The Evangelistic Bureaucrat*, Tavistock Publications, London, 1972; Johnson T., *Professions and Power*, Macmillan, London, 1972.

58 Beneviste G., *The Politics of Expertise*, Croom Helm, London, 1973; Dennis N., *People and Planning*, Faber, London, 1970; Smith B., and Hague D., (Eds.), *The Dilemma of Accountability in Modern Government*, Macmillan, London, 1972.

59 Simpson R., 'Beyond Rational Bureaucracy :Changing Government Values and Social Integration in Post-Industrial Society', *Social Forces*, Vol. 51, No. 1., September 1972, pp. 1-6.

social responsibility leads to injustices and Auschwitz-type 'final solutions', yet the technologist must not usurp the role of parliament within the community.

According to environmentalists and some academic contributors, technocrats tend to display considerable arrogance in their treatment of the relationship between man and the biosphere. Nature is treated as something to be 'mastered', or at least manipulated for mankind, since it is assumed to be deficient in its present form⁶⁰. This view almost certainly stems from the capitalist assumption that happiness is achieved primarily through the accumulation of material goods rather than aesthetic qualities or human interaction. Yet not only does large-scale technological exploitation of natural resources tend to create as many social problems as it solves, but perhaps places the very survival of homo sapiens at risk⁶¹. It would appear that 'big' is always presumed better than 'small', with 'more' assumed preferable to 'less'. Distributional aspects within society receive short shrift in such a mental framework.

Professional values also reinforce the myth that technology is 'neutral', i.e. that innovations may be used for good or ill. While it is true that the inventor has little control over the application of his creation, the type of technology developed and the manner in which it is exploited are very much the product of particular ideologies and political and economic systems. Entemann et. al. summarises the situation thus:

'... The form technology takes is determined by the values and priorities of the socio-economic system. As it develops, it reinforces that system. Therefore, when we speak of technology today, we must be careful to identify it as capitalist

60 Leiss W., *The Domination of Nature*, op. cit.

61 Commoner B., *The Politics of Energy*, Alfred Knopf, New York, 1979; Rothschild E., *Paradise Lost : The Decline of the Auto-Industrial Age*, Allen Lane, London, 1977; Robinson P., *The Crisis of Australian Capitalism*, VCTA Publishing, Melbourne, 1979.

technology, one that represents an accumulation of past choices made for the most part by and in the interests of employers.' 62

Radical theorists go even further, arguing that engineers and planners have become the willing dupes and advocates of those who use public investment and private economic power as a means of oppressing certain social classes of citizens⁶³. These arguments are not totally sustained in the literature, nonetheless they complement the intellectual snobbery and 'social engineering' of some professional viewpoints.

Two of the more disturbing traits of professionalism are those of arrogance and undue reliance on 'facts' and 'expertise'. As Henning and other writers have illustrated, criticism of professional judgment is often regarded as an affront to personal competence, and specialists tend to believe that only 'experts' should be consulted in project evaluation situations⁶⁴. Agencies tend to create a 'halo effect' of assumed neutrality and urbanity, while often engaging in backstairs intrigue and brokerage politics to ensure that their recommendations are accepted and their demands met. In such struggles a 'whirlpool' effect is often created, as protagonists attempt to draw in an army of external experts aligned to the same narrow value choices as they espouse⁶⁵. Underlying the whole debate is the constant theme that the experts know best. Unfortunately, lessons of experience suggest that technocrats and specialists of many kinds often develop defensive

62 Entemann E., et. al. 'Alternative Technology : Possibilities and Limitations', in Boyle G., Elliott D., and Roy R., *The Politics of Technology*, op. cit., p. 319.

63 Goodman R., *After the Planners*, op. cit.; Noble D., *America by Design : Science, Technology and the Rise of Corporate Capitalism*, op. cit., passim.

64 Henning D., 'Environmental Policy and Politics : Value and Power Content', *Natural Resources Journal*, Vol. 11, July 1971, pp.447-454.

65 Henning D., 'Natural Resources Administration and the Public Interest', *Public Administration Review*, Vol. XXX, No. 1, March-April 1970, pp. 134-140.

outlooks, ossified policies and are not immune to the errors that plague the rest of mankind. The penalties for wrong-guessing may be considerable, given the depth of commitment of resources involved, but it is usually the community rather than the agency concerned which ultimately bears the costs of correction⁶⁶.

If serious conflict arises, technocratic elites are prone to fall back upon claimed objectivity, superior knowledge and the utilisation of factual evidence to sustain their arguments. There are several recorded instances where government agencies have refused to give evidence to public inquiries they believed to be 'incompetent' to assess technical information, but suggestions that their own evidence is selective or merely inappropriate brings cries of outrage. This claimed reliance on 'facts' is a mere sham, perhaps not intentionally perpetrated but nonetheless lodged in the technocratic mind. In most instances detailed examination of the 'facts' reveals only limited statistical evidence, selectively compiled and founded upon a series of forecasts, prognostications, assumptions and subjective judgments⁶⁷. The vulnerability of government lies in the information upon which decisions are based. In Australia the limited data available is often in a form unsuitable for planning purposes and is prone to substantial misjudgment (e.g. population forecasts subsequently invalidated by the Borrie Report)⁶⁸. It is not surprising that information for community decision-making is often variable in quality, given that a continental

66 Wolfe A., *The Limits of Legitimacy : Political Contradictions of Contemporary Capitalism*, The Free Press, New York, 1977; O'Connor J., *The Fiscal Crisis of the State*, St. Martin's Press, New York, 1973.

67 Altshuler A., 'Rationality and Influence in Public Service', *Public Administration Review*, Vol. XXV, No. 3., September 1965, pp.226-233; Haveman R., 'Efficiency and Equity in Natural Resource and Environmental Policy', *American Journal of Agricultural Economics*, Vol. 55, No. 5, December, 1973, pp. 228-237; Bahm A., 'Science is not Value-Free', *Policy Sciences*, Vol. 1, 1971, pp. 391-396.

68 Commonwealth of Australia, *Population and Australia*, (First Report of the National Population Inquiry, the Borrie Report), PP.6 (1975), Australian Government Publishing Service, Canberra, 1975.

landmass and regional variations must be dealt with, but this constraint should be explicitly recognised rather than obscured in project submissions.

Overseas authors, such as Hoos and Wildavsky, are openly critical of the role that systems analysts and consultants play within project evaluation and authorisation⁶⁹. Hoos decries the glibness of specialists and undue reliance upon techniques, viewing the situation thus:

'... Contributing to the easy acceptance of techniques has been the ubiquity, the ready-mix features that renders them instantly applicable to almost any problem, especially if it is big and complicated ... (but) ... shrouded from critical review, systems analyses lie plastic bound in a kind of half-life, cited when they bolster a particular ideological position, sealed when they are likely to embarrass persons in power.'⁷⁰

Hoos and Wildavsky believe that model-building to simulate reality, the arbitrary ascription of costs and benefits of various kinds, and reliance upon the semantic prestidigitation of 'experts', may constitute the games people like to play; but they exist in a world apart from the real one, where public policy is dictated by political factors and where the 'rational' is not necessarily identical with the socially desirable⁷¹. The above criticism may not be so relevant in Australia where management techniques are often viewed with healthy scepticism, but it is salutary to remember that the State and Commonwealth governments continue to employ a considerable number of analysts and consultants, with little effective control over their performance or influence.

69 Hoos I., *Systems Analysis in Social Policy*, Institute of Economic Affairs, London, 1969; Wildavsky A., 'The Political Economy of Efficiency : Cost Benefit Analysis, Systems Analysis and Program Budgeting', *Public Administration Review*, Vol. XXI, No. 4, December 1966, pp. 298 et. seq.

70 Hoos I., 'Systems Techniques for Managing Society : A Critique' *Public Administration Review*, Vol. 39, March-April 1973, p.158.

71 Downs A., *Inside Bureaucracy*, Little Brown and Company, Boston, 1967; Marshall H., 'Politics and Efficiency in Water Development', in Kneese A., and Smith S., *Water Research*, John Hopkins Press, Baltimore, 1966.

In summary, the environmentalists have many reasons to be concerned about the choice and application of project evaluation techniques, as well as the internal weaknesses of the methodologies themselves. When project assessments are challenged, the tactics of eco-activists tend to take three forms:

- (i) questioning the data base and specific assumptions upon which evaluation rests;
- (ii) attempting to prove that errors in assessment have occurred, or that other factors (principally social and ecological variables) have been ignored; and
- (iii) claiming that inappropriate judgments were made or that the entire study was invalidated by incorrect adoption of a methodology unsuitable for the case situation. ⁷²

The principal difficulty for critics is that access to information, especially the detailed cost-benefit calculations of public agencies, is often very difficult to obtain and the eco-activists own legitimacy and expertise may not prove easy to promulgate in the political system. The information gap can sometimes be overcome, particularly as it is usually easy to identify deficiencies in official data; but the 'expertise' issue is more difficult; even if opposing views are comprehensively canvassed, politicians will usually settle for the official line. ⁷³

When conflict escalates, protagonists are likely to obscure the debate by claim and counter-claim, using statistics and terminology the public do not comprehend. In such a climate of dissension, it is not the realities of a situation which are debated, but assertions and half-truths ⁷⁴.

72 These tactics are identified from a number of case-studies of environmental conflict. See, for example, Gregory A., *The Price of Amenity*, Macmillan, London, 1971; Kimber R., and Richardson J., *Campaigning for the Environment*, Routledge and Kegan Paul, London, 1974; Dempsey R., (Ed.), *The Politics of Finding Out : Environmental Problems in Australia*, *op. cit.*

73 Fagence M., *Citizen Participation in Planning*, Pergamon Press, London, 1977.

74 Reiselbach L., (Ed.), *People Versus Government : The Response of American Institutions*, University of Indiana Press, 1975.

In countering the eco-activists' claims and criticisms, government agencies tend to adopt three tactical responses:

- (i) they accuse the environmentalists of distortion or lack of expertise;
- (ii) they may admit some errors of judgment or deficiencies of assessment but argue that all action feasible in the circumstances has been taken or that history has proved the agency correct in the past; or
- (iii) they may express outrage at affronts to personal competence and enlist the aid of consultants, external allies, or professional associations to bolster the agency's image and claims. ⁷⁵

In the last resort, both parties may accept a public inquiry to resolve differences or achieve judgments, but in such circumstances it is usually the agency's report which is used as key evidence, with debate centering upon aspects of the assessment, rather than its fundamental assumptions⁷⁶. In any event, government bodies tend to gain frequent access to committee members, as well as reserving a final right of reply⁷⁷. In some instances, public authorities prove more astute than conservation groups in gaining credible allies, such as private enterprise or overseas experts; but this disparity probably reflects the agency's command over resources and the easier road of gaining adherents for growth-orientated programmes⁷⁸.

75 Henning D., *Environmental Policy and Administration*, op. cit., Chapter 2, pp. 15-34; Braybrooke D., *Traffic Congestion Goes Through the Issue Machine*, Routledge and Kegan Paul, London, 1974.

76 Rhodes G., *Committees of Inquiry*, Allen and Unwin, London, 1975; Wraith R., and Lamb G., *Public Inquiries as an Instrument of Government*, Allen and Unwin, London, 1971.

77 Verba S., 'Democratic Participation', in Gross B., (Ed.), *Social Intelligence for America's Future*, Allyn & Bacon, Boston, 1969; Smith R., and Weller P., (Eds.), *Public Service Inquiries in Australia*, University of Queensland Press, Brisbane, 1978.

78 Richardson J., and Jordan A., *Governing Under Pressure*, op. cit. Chapter 6.

4.5 PROJECT AUTHORISATION

In considering decision processes within government, project evaluation methodology should really be viewed as a two-stage procedure:

- (i) the application of cost-benefit analysis and related techniques to identify project options and implications; and
- (ii) the formal selection process by which decisions are reached and implementation authorised.

Although a great deal has been written about evaluation and the ultimate selection process in terms of decision criteria, the capacity of political and administrative systems to exercise reasoned judgment requires some additional comment. Project analysts are always in a dilemma about the form and content of reportage of their deliberations; too little information will either mislead about complexities or lead to criticism that information is being concealed; too much technical detail may overwhelm the generalist policy-maker and 'amateur' politician.⁷⁹ In practice, the format of reportage varies enormously and the question must be posed as to whether parliament and cabinet should not lay down clearer guidelines in this regard⁸⁰. Environmentalists frequently criticise the form of reportage and claim that many assessments are not made available in sufficient quantity to the public, but information transmittal has a cost and there is always the question of how many people need to be informed.

79 Maass A., 'Congress and Water Resources', in Rourke F., (Ed.), *Bureaucratic Power in National Politics*, Little, Brown and Co., Boston, 1965.

80 Provisions for reportage are sometimes specified in statutes, but normally only in respect of the content of annual reports. Parliamentarians appear to have little interest in the reliability or comprehensiveness of information reaching them on other matters; the assumption is that the bureaucracy is always competent and honest. Empirical evidence does not totally support this judgment.

Allied to the above issue is the question of how reports are treated when they reach executive or legislative levels. Here two matters are pertinent : the effectiveness of review prior to authorisation and relations between a technically orientated bureaucracy and a less technically knowledgeable parliament⁸¹. Given the doubts that have been raised about project evaluation methodology in Australia in recent decades, there is a tendency for the executive to establish more opportunities for public comment on proposals and to seek 'second opinions' from sources other than the initiating project authority itself. Such mechanisms are not yet well developed, 'public participation' often turns out to be selective consultation and 'second opinion' bodies usually possess resources far smaller and more time constrained than development authorities, so that the review procedure is scant and largely a token one⁸². Environmentalists often have naive notions as to what such review or appeal bodies can achieve.

When proposals reach parliament other problems arise. Because of the nature of party-politics, authorising legislation is often hastily debated, more as a point-scoring exercise against opposition political parties than as a serious debate of economic, social or other parameters⁸³. Politicians are sometimes afraid to ask technical questions, fearing the disclosure of their ignorance of such matters and judging that, in any event, the volume of legislation is such that only a few issues will

81 Lane R., 'The Decline of Politics and Ideology in a Knowledgeable Society', *American Sociological Review*, Vol. 31, No. 5, October 1966, pp. 649-662.

82 Fagence M., *Citizen Participation in Planning*, *op. cit.*, *passim*; Pateman C., *Democratic Theory and Participation*, Cambridge University Press, Cambridge, 1970.

83 Emy H., *The Politics of Australian Democracy*, Macmillan, Melbourne, 1974; Davis B.W., 'Professional Values and Accountability in Government : The Case of Australian Public Investment', in Jaensch D., and Weller P., (Eds.), *Responsible Government in Australia*, *op. cit.*, pp. 161-167.

84

be selectively treated⁸⁴. Parliamentary committees of inquiry have an extremely variable performance, as Wraith and Lamb, Rhodes and other authors have noted⁸⁵. Much depends upon terms of reference, membership, mode of operation, depth of investigation and a variety of other factors. In many instances, committees of inquiry are used as a means of delay or rubberstamping of predetermined policies, but it would be incorrect to assert that this is the entire spectrum of possibilities. It could be claimed that during the past decade, standing committees of parliament and special inquiries have become more important within the governmental system, both as a means of seeking increased effectiveness of expenditure and as a countervailing force to the increased centralisation of power by cabinet⁸⁶.

Central to the issue of project review and authorisation is the question of whether adequate means exist for public comment on project proposals. Despite widespread attempts to facilitate public participation, suggested procedures are not always effective and some bureaucratic and political obstacles remain⁸⁷. Environmentalists decry these injustices but do not appear to have identified any specific reforms of review or appeal procedures or pressed for the establishment of

84 Reid G.S., 'The Parliamentary Contribution to Law-Making'. Paper presented at Canberra Seminars in the History of Ideas, Research School of Social Sciences, Australian National University, Canberra, August 1975.

85 Wraith R., and Lamb G., *Public Inquiries as an Instrument of Government*, op. cit.; Rhodes G., *Committees of Inquiry*, op. cit., Indyk M., 'Making Government Responsible : The Role of Parliamentary Committees', in Jaensch D., and Weller P., (Eds.) *Responsible Government in Australia*, op. cit., pp. 93-109.

86 Indyk M., *ibid.*; Wilenski P., 'Ministers, Public Servants and Public Policy', *The Australian Quarterly*, Vol. 51, No. 2, June 1979; pp. 31-45. Reid, G.S., 'The Trinitarian Struggle : Parliament-Executive Relationships' in Mayer H., and Nelson H., (Eds.), *Australian Politics : A Third Reader*, Cheshire, Melbourne, 1973, pp. 513-526.

87 Wiltshire K., *An Introduction to Australian Public Administration*, Cassell, Melbourne, 1974 (especially Chapters 10, 11 and 12); Australian Institute of Political Science, *Who Runs Australia?*, Angus and Robertson, Sydney, 1972.

comprehensive freedom of information legislation .

4.6 RECAPITULATION

The information contained in Part A of the Chapter demonstrates that there are substantial grounds for concern about project evaluation methodology, but perhaps the values and outlook of project analysts are more of a problem than the techniques themselves. Yet conservationists will not achieve reform unless these realities are effectively promulgated in the political arena. There may well be numerous obstacles to this objective. What is required of all protagonists in environmental conflict is recognition of the fact that project appraisal is not a precise science and that considerable care is needed if certain inherent dangers are to be avoided. The environmentalists face considerable difficulty in challenging the legitimacy of technocrats, not only because the complexity of issues renders them difficult to project to the public, but because it may take substantial effort to gain access to information and to persuade the community of the environmentalists' own expertise. These difficulties are amply illustrated if we consider the debate over energy strategy in Tasmania over the past two decades. It is to this case evidence we now turn.

88 Environmentalists frequently seek specific facts, but do not appear to press a more general case for information release or for new procedures. See discussion in *The Processes and Problems of Seeking Conservation*, Reports from a Seminar conducted on 26-28 June 1970, Centre for Continuing Education, Australian National University, Canberra 1970.

PART B : THE TASMANIAN ENERGY DEBATE

4.7 THE ISSUE AND THE PROTAGONISTS

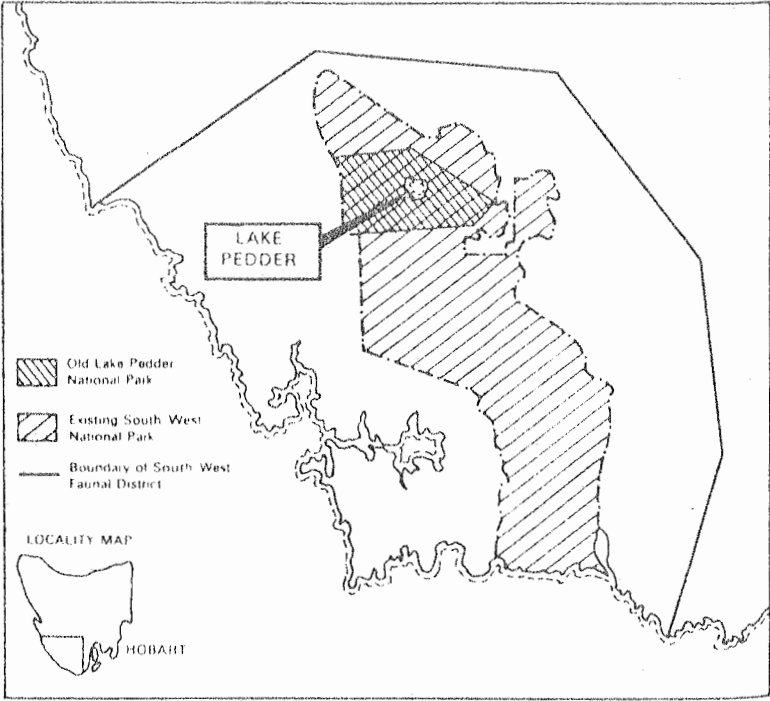
4.7.1 The Physical Setting

One of Australia's most important remaining wilderness areas is South-West Tasmania, commonly known to Tasmanians as 'the South-West'. Encompassing nearly one quarter of the island's total area, bordered on the north by the Lyell Highway and in the east by the Derwent, Florentine and Huon Valleys and the South Coast Range (see Map 1, page 197), the South-West contains over one million hectares of vacant Crown land, much of it in a more or less pristine condition⁸⁹.

The importance of the South-West arises from a combination of superb scenic features, making it one of the few extant examples of distinctively different sub-antarctic forest and mountain landscapes of the Southern Hemisphere (the others are Patagonia and the Southland of New Zealand). These attributes render it extremely valuable for tourism and recreational purposes, but apart from scenic grandeur of world heritage status, the scientific value of the area is very high, as its undisturbed terrain includes landforms, caves, wildlife and flora of immense variety and interest⁹⁰. The size of the area which remains roadless is of particular importance, since it constitutes a barrier against human intrusion and impact and thus a significant reference point against other areas undergoing modification and exploitation.

89 For a description of the region see various articles in Australian Bureau of Statistics, Tasmanian Office, *Tasmanian Yearbook* (annual) Hobart, especially 1976 and 1978; Hobart Walking Club Journal, *The Tasmanian Tramp*, various issues; Gowlan R. and Gowlan K., *Trampled Wilderness*, C.L. Richmond, Devonport, Tasmania, 1975.

90 For a summary of the principal attributes of the area see South-West Tasmania Committee, *Report on Proposed Hydro-Electric Power Development in South-West Tasmania*, Hobart, October 1980; also South West Tasmania Resources Survey, *Project Report : Vol. 1. Resource Inventory and Vol. 2 Appendices*, Hobart, March 1981.



Location of National Park and Fauna Reserve Boundaries (1968)

MAP 1 : THE LAKE PEDDER REGION, SOUTH-WEST TASMANIA

The South-West contains the State's last wild and scenic river systems, the others being artificially regulated by hydro-electric development. The region also possesses considerable forestry and mineral potential, although less than initially assumed by politicians and the public⁹¹.

From the State's first settlement in 1801 until the late 1950s, South-West Tasmania remained virtually uninhabited and only partially explored, despite limited incursions by surveyors, miners, timber-cutters, fishermen and bushwalkers; indeed some of its mountain ranges remained unmapped and unscaled until the early 1960s⁹². At that time a popular misconception existed that the region contained vast ore-bodies and forests which one day would provide a key source of economic wealth for Tasmania; but those who had penetrated its fastnesses reported large tracts of thick rainforest generally not of sawlog quality, and wide buttongrass plains separated by jagged quartzite peaks studded with alpine lakes. It would be valid to claim that despite the romantic history of the region, little political or administrative reality existed about its economic potential and, then as now, few ministers of the Crown had even inspected or thought about the region in any detail⁹³.

In 1954 the Hobart Walking Club, a Tasmanian bushwalking organisation, suggested that the Lake Pedder locality in the very heart of the South-West should be declared a national park. Ringed by attractive mountains, fringed by a beach of pinkish-white quartzite sand

91 Until comparatively recently, little was known about the natural resources of South-West Tasmania. The Commonwealth Government established a South-West Resources Survey in 1976 and various inventories and reports have now been published.

92 For detailed accounts of the history of the area, see Gee H., and Fenton J., (Eds.), *The South-West Book : A Tasmanian Wilderness*, Australian Conservation Foundation, Melbourne, 1978.

93 Aerial inspections are common and ground reconnaissance has increased over the years, but not all State politicians have penetrated the wilderness to discover its values.

which provided a natural landing strip for light aircraft, there was little doubt that the lake was one of the major scenic assets of Australia. A scenic reserve of some 24,000 hectares was established in March 1955, but the Scenery Preservation Board did not consider it necessary to station a ranger in the area, as the South-West was regarded as isolated and virtually self-protecting⁹⁴. Nevertheless, major forces were at work which in the 1960s and 1970s would end the isolation of the region once and for all and result in a conservation controversy of such magnitude and bitterness that the struggle continues to this day. It is to these dramatic events that we now turn.

4.7.2 The Central Issue

The Lake Pedder controversy must be viewed against the broader context of economic development problems in a peripheral and dependent state which was described by Sir Bede Callaghan as '... beautiful, tranquil, but economically vulnerable.'⁹⁵ Almost since 1901, the year of Australian federation, Tasmania has pursued two mutually interdependent strategies:

- (i) reliance upon considerable financial assistance from the Commonwealth government; and
- (ii) a development policy based upon 'hydro-industrialisation', an assumption that cheap hydro-electric power would attract industry to the State.

So pervasive was the latter myth, that it became established dogma untested by empirical investigation, but providing perfect justification for the creation of a large public construction authority, the Hydro-Electric Commission of Tasmania (HEC), the principal employer in the State and a guaranteed source of voting support for an entrenched Labor government⁹⁶.

94 The Scenery Preservation Board was starved of finance and staff and thus not in a position to station a ranger in the area.

95 Commonwealth of Australia, *Report of an Inquiry into the Structure of Industry and the Employment Situation in Tasmania* (The Callaghan Report), Australian Government Publishing Service, Canberra, 1977.

96 Because of the small scale of the Tasmanian economy, public works play a significant role in overall employment.

By the early 1960s, it was apparent that unrealistic assumptions about matching the economic growth of the mainland states could no longer be sustained in Tasmania. For the first time in several decades, the State's economic development philosophy was in question⁹⁷. At first this unease was covert rather than explicit, but all that was needed was some catalytic event to bring the issue to the fore. Eventually it was the proposal to flood a national park in the South-West wilderness which generated a conflict about State energy policy and questioned the direction in which the Tasmanian economy was heading. Initially the debate about flooding a national park took precedence, but gradually the more substantive issue became dominant.

4.7.3 The Protagonists

Very little formal machinery exists in Tasmania for the resolution of land-use conflicts. Despite previous attempts to establish State planning machinery, the general situation is characterised by hydra-headed planning and strong competition between public authorities for jurisdiction over territory and resources⁹⁸. In consequence, a wide variety of institutions gradually became embroiled in the struggle for possession of South-West Tasmania. It is not feasible to record all details of each organisation's functions, structure and membership, or its operational style and degree of activism. To some extent, these factors emerge as the chronology of events unfolds. The array of organisations illustrates the complexity of land-use debates and supports Henning's contention that brokerage politics and the whirlpool effect of drawing in new contestants are distinguishing characteristics of nature

97 It is not at all clear in retrospect just how the questioning arose, but any form of statistical comparison with mainland economic development would suffice to create doubts about the Tasmanian situation.

98 Planning and Development Bills were introduced into the State legislature in 1973 and 1974, but failed to gain the approval of the Legislative Council (Upper House). For discussion on planning fragmentation see Bowman M., (Ed.), *Australian Approaches to Environmental Management*, Environmental Law Reform Group, University of Tasmania, 1979.

conservation controversies⁹⁹.

At various points in time, the following institutions were involved: (Note conformity with the classification of protagonists outlined in Section 3.2 of Chapter 3).

(i) Legislative, Executive and Judicial Bodies:

State Cabinet and State Parliament, Tasmania
The Commonwealth Government
The Supreme Court of Tasmania*
The High Court of Australia*
Select Committee of the Legislative Council, Tasmania, 1967
The Commonwealth Committee of Enquiry on Lake Pedder, 1974

(ii) State Authorities and Local Government:

The Hydro-Electric Commission of Tasmania
The Forestry Commission of Tasmania
The Department of Lands
The Department of Mines
The Scenery Preservation Board (pre-1971)
The Animals and Birds Protection Board (prior to 1971)
The National Parks and Wildlife Service (1971 onwards)
Municipal Councils of Huon and Esperance
Various inter-departmental committees
The South-West Advisory Committee (1974-1978)
The South-West Tasmania Committee (August 1979 onwards)
The Energy Directorate (1979 onwards)

(iii) Development Interests:

Various private sector organisations, including the following:

Tasmanian Chamber of Commerce*
Mineral Holdings (Australia) Pty.Ltd.*
Australian Newsprint Mills (ANM)
Australian Paper Manufacturers (APM)
The Tasmanian Timber Association
Several timber firms (e.g. IXL Timber Pty.Ltd.) and various cartage contractors

(iv) Voluntary Conservation Groups:

The South-West Committee
The Lake Pedder Action Committee
The Tasmanian Conservation Trust Inc.
The Tasmanian Wilderness Society*
The Australian Conservation Foundation
Federation of Tasmanian Bushwalking Clubs*
Hobart Walking Club
Launceston Walking Club
Australian Speleological Society*

99 Henning D., *Environmental Policy and Administration*, op. cit., Chapter 2; Thompson D., (Ed.), *Politics, Policy and Natural Resources*, op. cit.; Edmunds S., and Letey J., *Environmental Administration*, McGraw-Hill Book Co., New York, 1973; Sewell W.R.D., and Coppock J., (Eds.), *Public Participation in Planning*, Wiley and Sons, London, 1977.

(v) Other Organisations:

Various trade union and community interest groups
 Tasmanian Labor Party
 Tasmanian Liberal Party
 The United Tasmania Group (UTG), Tasmania's first and
 only conservation political party

This is not an exhaustive list, but it does illustrate the variety of values and perspectives with which the Tasmanian Government has had to contend in deciding the future of South-West Tasmania. Institutions marked thus (*) in the above list were not directly concerned with the Lake Pedder campaign, but were involved in many of the simultaneous disputes about South-West resources, such as the Precipitous Bluff case analysed in Chapter 6 of the thesis.

4.8 THE LAKE PEDDER CONTROVERSY 1964-1978

4.8.1 An Introductory Comment

Conservation controversies are often complex, with many threads of activity occurring simultaneously and many actions never mentioned in official records or the media. Unravelling the pattern of events with the wisdom of hindsight may sound simple, but memories are sometimes faulty or amended over time and it is often difficult to recapture the intensity and nuances of battle. In researching the Lake Pedder case, however, one is impressed by the vivid manner in which events and personalities were etched on people's minds, hence it has been possible to cross-check the sequence of happenings to a remarkable degree. The story outlined below has been abbreviated to the essentials suitable for a research assignment where each chapter must be largely self-contained. Although the Lake Pedder saga has been recorded in a variety of documents, most of the reportage relates to the period 1954-74. The statement below contains new material relating to completion of the Middle Gordon Power Scheme in 1978 and records some associated events to 1981.

4.8.2 The Sequence of Events

Of all the Australian States, Tasmania is the most richly endowed with water resources relative to area. Rainfall and topographic conditions are particularly favourable to the development of hydro-electric power, consequently there is a long history of such utilisation dating from the late nineteenth century¹⁰⁰. The Hydro-Electric Commission of Tasmania (HEC) was established in January 1930, empowered by Act of Parliament to exercise sole right of generation, distribution and sale of electricity throughout Tasmania. The prefix 'Hydro' in its title did not limit the means by which the Commission was authorised to produce electricity, but until 1970 the system remained exclusively hydro-electric¹⁰¹. Since 1930, and especially since the end of the Second World War, system generating capacity has been steadily expanded so that installed capacity now exceeds 1780 MW, and Tasmania accounts for approximately one-tenth of the nation's output of electricity and nearly one-fifth of the energy used in industry¹⁰². Per capita electricity consumption is nearly 3.3 times the national average and, next to Norway, the highest in the world; this is because industry consumes nearly two-thirds of all energy generated and the principal firms are involved in metals refining. Over the past decade the total investment in new hydro-electric installations has exceeded \$450 million, absorbing a very large proportion of all State Loan Funds, plus some additional public borrowing and internal capital¹⁰³. The

100 Dallas K., 'Water Power in Tasmanian History'. Paper presented to the Tasmanian Historical Research Association, Hobart, 22 July 1959; see also 'The Tasmanian Electricity Generating System', in *The Tasmanian Yearbook*, 1980, Australian Bureau of Statistics, Tasmanian Office.

101 Thermal generation was considered prior to 1970 but it was always argued that Tasmanian coal was of limited availability and poor quality. During the 1970s larger deposits were proven, some of good quality.

102 Commonwealth Bureau of Statistics, *Tasmanian Yearbooks* 1971 and 1980, Government Printer, Hobart.

103 Harwood C., and Hartley M., *An Energy Efficient Future for Tasmania*, Tasmanian Conservation Trust Inc., Hobart, 1980.

Commission is now the State's largest public corporation with a staff of nearly 1950 persons and a construction labour force of approximately 2760 persons¹⁰⁴.

Over the years the Hydro-Electric Commission has gained an enviable reputation for technical innovation and engineering excellence, pioneering new techniques and establishing several world records¹⁰⁵. This scientific competence, however, has not always been matched by progressive personnel policies or awareness of community values; issues that were to cost the Commission dearly once the Lake Pedder controversy arose. Overall the organisation seems to have construed its functions rather narrowly, compared with the broader and more imaginative policies of the Snowy Mountains Hydro-Electric Authority¹⁰⁶. The disparity between the two organisations is most pronounced in the field of public relations. While the Snowy Mountains Hydro-Electric Authority successfully persuaded the public of its nation-building role and disarmed its critics by offering the possibility of dialogue, the Hydro-Electric Commission of Tasmania has tended to denigrate its opponents and rely on State Cabinet support to work in its favour¹⁰⁷. Such faith has generally been well-founded, for the Labor Government, which has held office for a record period from 1934 to 1969 and from 1972 to date, has tended to consistently favour a policy of 'hydro-industrialisation' and has usually accepted the Commission's recommendations with little or no questioning¹⁰⁸.

104 Hydro-Electric Commission of Tasmania, *Annual Report 1979-80*, Government Printer, Hobart, 1981.

105 Most of the world's records relate to tunnelling, but the Commission was also a pioneer of precast and prestressed concrete in Australia and has introduced many innovations in dam design and construction.

106 See Hardman D., *The Snowy Scheme : Management and Administration*, West Publishing Corporation, Sydney, 1970.

107 The Commission's attitude stems largely from its perception of 'expertise', thus the public is regarded as having little to contribute to decision processes. See Section 4.4 of this Chapter.

108 Tasmania is not the only province where cheap hydro-electric energy has been assumed to be the catalyst for development. See Nelles H., *The Politics of Development: Forests, Mines & Hydro-Electric Power in Ontario, 1849-1941*, Macmillan of Canada, Toronto, 1974.

By the late 1950s, having harnessed the more accessible resources of the Derwent, South Esk and Mersey-Forth River systems, it was logical that the HEC should next direct its attention to the high rainfall areas of the western portion of the State. The principal barriers to be overcome were lack of access facilities and the obvious cost implications of constructing and servicing major generating facilities in such rugged and uninhabited country. Even before detailed water resource investigations of the area were initiated, the Commission had indicated an interest in the Lake Pedder region during discussions conducted in 1954 when declaration of the Lake Pedder National Park was first mooted¹⁰⁹. At the time, the Hydro-Electric Commissioner (Sir Allan Knight) was a member of the Scenery Preservation Board, the body charged with preserving Tasmania's unique scenic beauty¹¹⁰. Sir Allan pointed out that there were long term prospects of hydro-electric development in the South-West and that these proposals might ultimately affect the Pedder region. Nevertheless a reserve of some 24,000 hectares was established in 1955 and the HEC did not raise any serious objection¹¹¹.

As meetings of the Scenery Preservation Board were confidential this implicit threat to the Lake Pedder National Park was not known to the public. Furthermore, as Mosley has noted, the criterion adopted for selection of the Lake Pedder reserve was simply that remarkable scenic beauty was known to exist in a compactly definable location¹¹².

109 The Hobart Walking Club, a Tasmanian bushwalking organisation, first proposed the establishment of a national park in the region, but did not specify any management guidelines.

110 Membership of the Scenery Preservation Board was almost entirely restricted to heads of department. It therefore took much the form of an interdepartmental committee.

111 Under the then existing Scenery Preservation Act 1915 and amendments, the terms 'national park' and 'scenic reserve' were virtually synonymous. National park areas, however, could only be revoked by joint resolution of both Houses of Parliament.

112 Mosley J.G., 'Conservation Case Study : South-West Tasmania' in *The Processes and Problems of Seeking Conservation*, Centre for Continuing Education, Australian National University, Canberra, June 1970, pp. 1-13.

The Scenery Preservation Board did not consider it necessary to conserve a large segment of the surrounding wilderness, as the South-West was then regarded as remote, inhospitable to human penetration and thus largely self-protecting. In consequence, mineral exploration licences were issued to a number of companies to search for zinc, copper and other lodes that many Tasmanians believed existed in the area¹¹³. By the late 1960s it was becoming increasingly apparent that the principal assets would prove to be water power, timber and wilderness.

Early in 1962, Mr Ron Brown, MLC, then Deputy President of the State Legislative Council, suggested that the whole of the South-West region should be preserved as a national park. Although his suggestion was virtually ignored by the Government, the steady expansion of resource exploration activities in the area, coupled with accompanying fire damage, had alerted bushwalkers throughout the State, who established a group called the South-West Committee to press for a co-ordinated plan of conservation and development for the region. In view of the charges subsequently levelled against this body by Labor politicians and some public servants, it is important to note that almost from the outset, a wide range of community organisations and interests were represented, that membership included a number of persons with technical and scientific qualifications, that the organisation tried to adopt a middle-of-the-road approach and did not press for absolute preservation as a wilderness zone, but rather for integrated development with provision for wilderness, recreation, tourism, forestry, energy generation and other functional purposes¹¹⁴. With hindsight it is easy to view

113 The South-West's isolation and ruggedness has induced many Tasmanians to harbour unrealistic notions about its potential, especially mineral wealth.

114 Various submissions to the Tasmanian Government 1963-1966, but especially *A Proposed South-West National Park*, August 1966. Note also a *Proposed Enlarged South-West National Park*, June 1973.



A sketch map showing the main features of the official Middle Gordon Scheme approved by Parliament in August, 1967, and the South-West National Park created the following year. (approximate scale is 18 miles to one inch.)

(Source: Australian Conservation Foundation, *Pedder Papers*, Melbourne, 1972, p. 18)

MAP 2 : THE MIDDLE GORDON POWER SCHEME

this approach as amateurish and naive, since the proposals were submitted by individuals knowledgeable about the outdoors but totally unversed in the subtleties of interest group lobbying, and adoption of the proposals was completely dependent on departmental acquiescence. It was assumed that reason would prevail, whereas advantage might have been gained if a more militant bid had been made, with agreement to negotiate later¹¹⁵. The environmentalists were actually a loose coalition of concerned citizens, rather than a cohesive group of activists. The Lake Pedder conflict became their crucible, with scars and learning costs for all participants.

During 1963 a decisive move occurred which was to destroy the South-West's isolation for ever. The Hydro-Electric Commission applied for and received a \$5 million specific-purpose grant from the Commonwealth Government to extend a high grade access road some 80 kilometres westwards from the township of Maydena to the confluence of the Gordon and Serpentine Rivers, the most promising waterpower sites then under investigation¹¹⁶. The HEC's submission, never publicly released, was couched in terms of a visionary grandeur well calculated to persuade the federal authorities that a resource bonanza was forthcoming; but the subsequent granting of \$5 million Commonwealth aid was probably a quid pro quo for special grants previously allotted to mainland states for beef roads, land clearance and other developmental works¹¹⁷.

As the Gordon Road extended deeper into the South-West and the designs of the HEC upon the area became more apparent, the South-West Committee pressed the Government for more specific information on its

115 The initial advocates of conservation of South-West Tasmania were artists, photographers and academics, hence activism was not their style or attitude.

116 Other sites in South-West Tasmania were briefly examined, but unfortunately the best prospect was in the very centre of this wilderness region.

117 This raises interesting questions about the nature of review at federal levels. Many specific-purpose payments and forms of infrastructure assistance are essentially 'pork-barrel' politics.

development proposals, and urged the appointment of an interdepartmental committee to examine, report upon and co-ordinate resource utilisation in the area and the preservation of its scenic assets. Although in 1965 the Animals and Birds Protection Board had recommended the establishment of a large flora and fauna reserve, and the Mines Department and Forestry Commission were not active in the region, the South-West Committee was assailed by the then Premier (the Hon. E.E. Reece, MHA) for its interference in public affairs, and all requests for information were treated with extreme reticence. As Mosley has reported, official comment during this period remained either highly evasive, as when the Chief Commissioner of the HEC stated in 1961 '... the possibility of power development in this area in the foreseeable future is remote'; or vague, as when in 1965 the Premier said '... there would be some modification of the Lake Pedder National Park'.¹¹⁸

Now under more public pressure, but with the majority of the community still unaware of the impending confrontation, Cabinet decided to yield some ground. In mid-1965, the Government announced that an interdepartmental committee would be appointed to consider the future development of the South-West, including the alternative usage of available resources and specific recommendations as to parks or reserves. The members of the committee would be the permanent heads of the Hydro-Electric Commission and the Lands and Surveys Department and representatives of the Mines Department and the Forestry Commission. South-West national park proposals would be forwarded to the interdepartmental committee rather than to the Scenery Preservation Board which was statutorily responsible for the Lake Pedder area.¹¹⁹

118 Quoted in Mosley J.G. 'The Challenge of Wilderness', in *Architecture in Australia Journal*, Sydney, August 1970.

119 The Scenery Preservation Board would remain informed as both the Surveyor-General and the Hydro-Electric Commissioner were members of the interdepartmental committee and the Board.

There is little evidence to determine how diligently this committee pursued its task of devising options for the region. Even though formal terms of reference were not issued until December 1966, a final report was ready for Cabinet in April 1967. Meanwhile, in April 1966, creation of a faunal district of 300,000 hectares had been announced, providing a measure of protection for the animals and birds of the South-West, but no protection of the habitat on which their existence depended¹²⁰.

Thus far, the conservation campaign had remained relatively quiescent, but two events now occurred which were to accelerate and accentuate the impending conflict between the bureaucracy and the conservationists. In August 1966, the voluntary South-West Committee, tired of Government reticence and intractability, released a carefully worded statement and detailed report containing specific recommendations for the conservation and development of South-West Tasmania¹²¹. Copies of this submission were forwarded to all members of State Parliament, and the Liberal Opposition soon realised that considerable political capital might be gained from the document¹²². Early in 1967 a more militant conservation lobby emerged, calling itself the Save Lake Pedder Committee. Although this group included individual members of the original South-West Committee, it also recruited many bushwalkers who had previously shunned confrontation with Government¹²³. Nonetheless the original South-West Committee continued to function and two

120 The Animals and Birds Protection Act had as many shortcomings as the outdated Scenery Preservation Act.

121 South-West Committee, *A Proposed South-West National Park*, Hobart, August 1966.

122 The material contained in the South-West Committee's submission was never used by the Liberals to any extent, but they successfully exploited the anti-conservation attitude and this was a factor in Labor's defeat in 1969. Once in office themselves, they reverted to a pro-development philosophy.

123 The bushwalking fraternity was reluctant to become involved in 'political' arguments, but the threat to a prime recreation area proved sufficient to mobilise portion of the membership. By this stage, mainland groups were also joining the Tasmanian controversy.

organisations were now in the field. Apart from enlisting the aid of Tasmanian enthusiasts, the Save Lake Pedder Committee sought the advice and assistance of mainland and overseas conservation bodies, tried to enlist the support of influential figures within the Tasmanian community, and embarked on an active campaign of meetings, slideshows and publications aimed at preserving Lake Pedder. Not only was the level of activism increased, but the scale and variety of involvement extended¹²⁴.

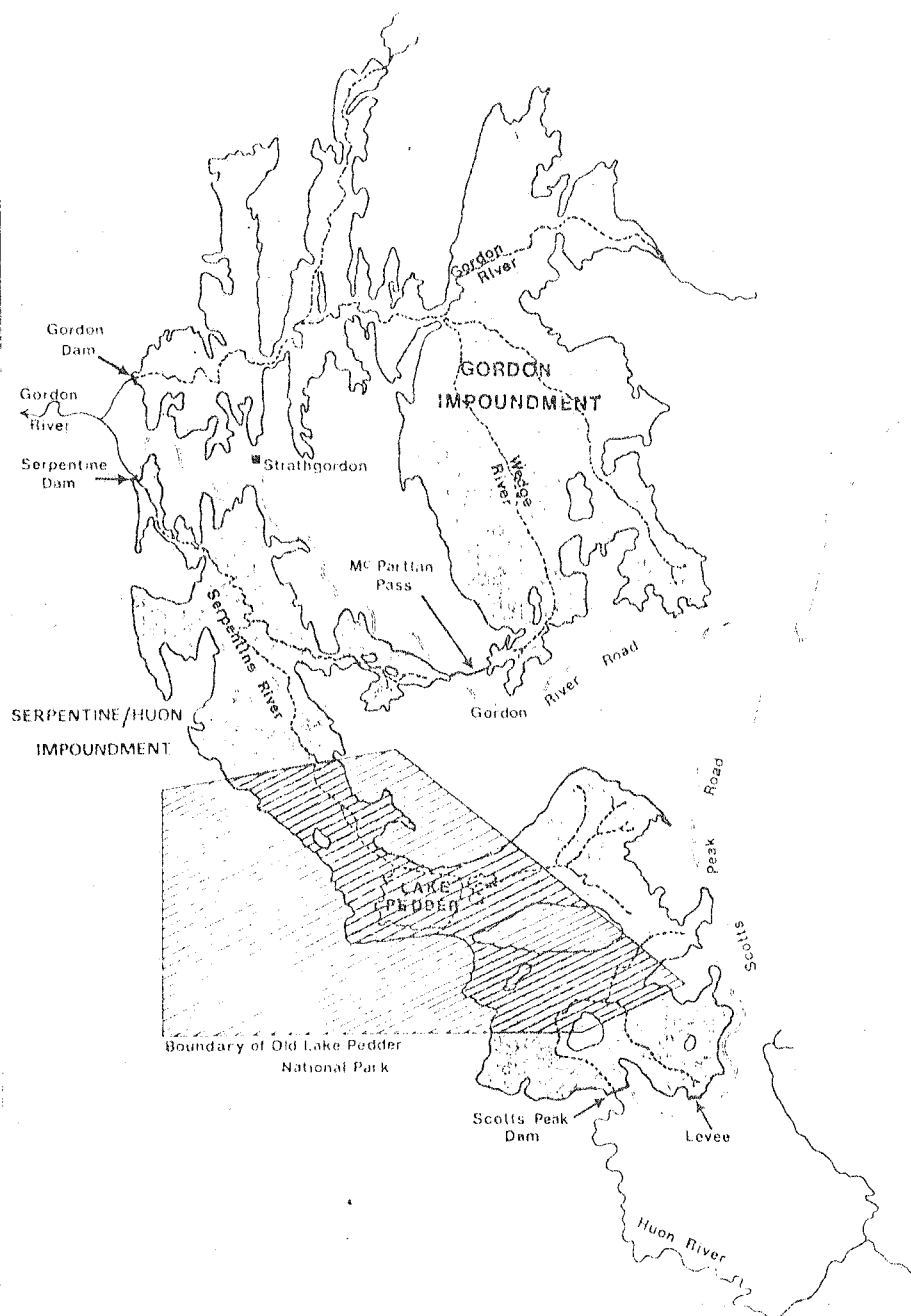
The Government had not been idle either, and in May 1967, the Premier announced that a submission had been forwarded to the Commonwealth Government seeking \$55 million special assistance for Stage 1 of the Gordon River Project. The State Treasury appeared somewhat disconcerted by this move, as the Gordon River proposals had not yet reached State Parliament, nor had the Treasury been given a proper opportunity to comment on the Commission's suggestions¹²⁵. In late May 1967, the long awaited Hydro-Electric Commission Report on the Gordon River Power Development Stage One and Thermal Power Station, was tabled in State Parliament and detailed debate on the accompanying Authorisation Bill began.¹²⁶ The Commission's principal recommendation was that a 140 metre high concrete arch dam should be constructed on the Gordon River upstream of the Serpentine River junction, with an underground power station of 240MW installed capacity downstream, and that subsidiary dams be constructed on the Huon and Serpentine Rivers so that the combined storage of the Pedder-Serpentine Valley could be diverted into the proposed

124 It was very much a 'learning on the job' exercise, as most of the participants had never been engaged in political action before.

125 Treasury evidence to the Select Committee of the Legislative Council on the Gordon River and Thermal Power Development, Hobart, July-August, 1967. Note, however, that the Premier was both Minister for the Hydro-Electric Commission and Treasurer.

126 The Report was dated 1 May 1967, but actually tabled three weeks later.

new Lake Gordon (see Map 3 below). The reservoir created would be the largest in Australia and the total estimated cost of the project would exceed \$115 million, including provision for a small thermal power station at Bell Bay in the north of the State. The Commission's report made no specific mention of the Lake Pedder National Park, apart from noting that the area would be inundated to a depth of 15 metres and asserting that the new lake would be larger and more attractive than the old¹²⁷.



MAP 3 : POWER SCHEME FEATURES REFERRED TO IN THE TEXT

127 Did the Commission fail to address the question of destruction of a national park, assuming automatically that economic development was more important, or did it merely wish to downgrade the general impact of its works on the grounds that any action was bound to be an improvement on Nature? Either way, the perceptions are remarkable.

The announcement of these proposals unleashed an immediate storm of public protest. Argument centered not on whether the Gordon River project should be constructed, but whether Lake Pedder should be flooded to provide additional storage¹²⁸. Undoubtedly, it was the unbending attitude of the Commission as much as its secrecy which had aroused public ire, and now this legacy was to rebound in no uncertain terms. An acrimonious debate ensued between the Government, the Opposition, the HEC, various conservation groups and the public which had splintered into 'development' and 'anti-development' factions. A veritable avalanche of letters, suggestions, and complaints reached the desks of the local news media, public protest meetings, exhibitions and pamphlets soon followed, and a petition with over 10,000 signatures was presented when debate continued in the House of Assembly¹²⁹. Given the interest group criteria outlined in Chapters 2 and 3, it is reasonable to enquire whether the environmentalists were well organised and able to provide sound arguments to rebut the power scheme proposals. The evidence available suggests that the conservationists were not properly prepared for confrontation at this stage of the conflict and were not in agreement about tactics. They continued to believe that reason would prevail and apparently had little idea of how a political campaign should be mounted. They were to learn quickly under the pressure of events¹³⁰.

Within the State Parliament itself, the absence of an Hansard was an encouragement for many loose and inaccurate statements to be made and the general level of debate remained distressingly low and tangential

128 This issue became obscured as construction progressed. Soon the entire role and operations of the HEC were under attack. Ultimately two issues emerged: conservation of national parks and economic development strategy in Tasmania.

129 Letters to local newspapers are a popular means for Tasmanians to vent their grievances. The Pedder case was unique, however, in terms of volume, persistence and number of interested groups engaged within the local jurisdiction.

130 Some advice was available from experienced individuals in other States who had conducted similar campaigns.

throughout¹³¹. Undeterred by manifestations of public disapproval, and encouraged by an endorsement from the interdepartmental committee appointed to consider the future of the South-West, the Government used its majority to force passage of the authorising legislation and transmitted the bill to the Legislative Council for approval. In late June 1967, the Premier was able to announce that the Commonwealth would provide special bridging financial assistance totalling \$47 million for the Gordon River Project¹³².

Traditionally a house of independence and review, and acutely aware of murmurings from the hustings, the Legislative Council decided to accede to public demands and appointed a Select Committee to examine the Middle Gordon proposals¹³³. Initially allocated only two weeks in which to report, the Select Committee soon found itself inundated with a growing volume of public evidence, the necessity to obtain technical advice from external bodies such as the State Electricity Commission of Victoria and the Snowy Mountains Hydro-Electric Authority, and a growing realisation that unravelling the complexities of hydro-electric planning would not be an easy assignment. Although under pressure to reach an early conclusion, the Committee decided to extent its enquiry for some weeks in order that all relevant factors could be carefully weighed and analysed¹³⁴.

Despite a complete lack of technical expertise, the members of the Select Committee did a diligent job in the limited period available to them. Yet, as more than one critic has noted, apart from brief analytical discussions of the HEC's cost estimates with external bodies

131 A Hansard service was not established in Tasmania until 1979.

132 See announcement in *The Mercury* newspaper, 30 June 1967.

133 Members of the Select Committee were: Mr T.D'Alton (Chairman), Messrs Carins, Dixon, Fenton, Foot, Hodgman and Miller.

134 Some evidence from mainland sources was required and could not be rapidly obtained.

such as the State Electricity Commission of Victoria, little detailed attempt was made to unravel major underlying assumptions such as demand estimates, thermal options or system operational characteristics¹³⁵.

All the running was made by the HEC which had expert staff on hand to answer the Committee's queries and expound the Commission's case forcibly whenever required. As indicated on page 7 of the Select Committee Report, Committee members were not well versed in the technical and economic factors involved and a certain amount of confusion regarding terminology and assumptions was evident in their findings¹³⁶. The Select Committee was not aided in its deliberations by the tendency of environmentalists to wax lyrical about the beauty of the area, but failing to come to grips with key financial considerations about the cost of saving Lake Pedder. The HEC was equally remiss in proffering ambiguous and confusing estimates of options which might preserve the lake¹³⁷.

Meanwhile the Reece Government had added considerable fuel to the conflict by announcing on 28 June 1967 that a bill would be introduced into State Parliament to give the Hydro-Electric Commission temporary control over the entire South-West Faunal District, an area of 650,000 hectares. In fairness to the Commission, there is some evidence that it was unaware of the Government's intention and subsequently made commendable efforts to preserve the flora and fauna of the South-West through interpretive services and strict fire prevention measures. However the public did not take kindly to admission charges for use of

135 These are all fundamental issues requiring sophisticated analysis. Because of time pressure there was a strong temptation to accept the HEC figures at face value.

136 Note especially the confusion in terminology in regard to discounting methods and selection criteria. See pages 6 and 7 of the *Report of the Select Committee of the Legislative Council on the Gordon River and Thermal Power Development*, Hobart, August 1967.

137 Throughout the debate the HEC continued to argue for its preferred option and attempted to obscure other options by technical jargon or references to 'high costs' (unspecified).

the Gordon Road or to temporary jurisdiction over nearly one-tenth of the area of the State being granted to one Government agency¹³⁸.

On 22 August 1967 the Select Committee presented its Final Report to the Legislative Council. The Committee recommended that the HEC's Middle Gordon Project should be authorised, but expressed deep regret that no economical measures could be found to prevent the flooding of Lake Pedder. The Select Committee was highly critical of the HEC's public relations and expressed the view that the Commission had been reluctant to investigate the possibilities of thermal power options. A one year time limit was suggested for HEC control of the South-West, with the immediate establishment of a large South-West National Park to follow. A final firm recommendation was that any new power development proposals coming before Parliament should be referred to a Joint Committee of both Houses for detailed examination and report prior to legislative approval¹³⁹.

Throughout these events, no statement was issued by the Scenery Preservation Board concerning the national park under its jurisdiction. It is not necessary to search far to discover the reasons for this silence. Critics had long regarded the Scenery Preservation Board as impotent in the face of departmental interests, as the Board was composed of departmental representatives and a few Government nominees¹⁴⁰. Functioning under inadequate legislation dating from 1915, starved of funds and appropriate staff, tied to the Lands and Surveys Department for administrative purposes, operating on a part-time basis, and directed by a Cabinet hostile to environmental matters, it stood little chance of

138 HEC control of the South-West lapsed in October 1968, following pressure to implement the Select Committee's recommendation. A South West National Park of 473,500 acres was established, but the HEC retained control of its works area and the Gordon Road.

139 This proposal was ignored when the \$134 million Pieman River Scheme was approved by Parliament in 1971. Although not as controversial as the Lake Pedder case, flooding of portion of a scenic reserve was involved.

140 A National Parks and Wildlife Service was eventually established, coming into operation in October 1971, but this was not achieved without considerable debate and recrimination.

resisting HEC pressures. And yet one would have thought that its statutory obligations would have compelled it to make at least a token gesture of protest, but no such comment was forthcoming. Members of the Legislative Council Select Committee noted this omission and argued that the Scenery Preservation Board should be replaced by a National Parks and Wildlife Service established on a fully professional basis and with some measure of independence. The appropriate legislation was subsequently introduced in 1969 and the Service commenced operations in October 1971, adopting a much more professional attitude right from its inception¹⁴¹.

In all the furore over Lake Pedder it would be wrong to assume that either the conservationists or the Hydro-Electric Commission were entirely monolithic. The conservation alliance is at best an uneasy one consisting, as Peres has noted, of 'coolmen versus visionaries', since conservation means different things to different people¹⁴². This was certainly the Achilles heel of the conservationists in the Lake Pedder case, and the HEC skilfully exploited both the minority nature of the movement and the somewhat extreme views expressed by a few conservation spokesmen; an understandable defensive reflex since scrutiny of its own operations was highlighting certain deficiencies and elitist attitudes¹⁴². Evidence suggests that at this stage of the campaign the eco-activists were becoming better organised, but had failed to appreciate that defence of wilderness alone did not suffice; there was

141 The Service has suffered some stress in recent years due to staff shortages relative to area of jurisdiction.

142 Peres L., 'Ecology, Conservation and Politics' in *The Processes and Problems of Seeking Conservation*, Centre for Continuing Education, Australian National University, Canberra, 1970, pp. 1-10.

143 The HEC was as uncertain as the conservationists about what tactics to adopt, but when in doubt it fell back on claims of its own expertise, relative to that of its critics.

an urgent need to challenge the economic analysis of the Middle Gordon Project, but the conservationists lacked people with appropriate skills to undertake this task.¹⁴⁴ There were vulnerabilities which the eco-activists failed to perceive, including some dissension within the Hydro-Electric Commission itself over the relative merits of hydro-electric versus thermal generation¹⁴⁵.

Once legislation approving the Middle Gordon Project was approved in late August 1967, one might have expected the hue and cry to die down. State parliamentarians obviously believed that the matter had been given a good airing and was now settled, but their belief proved highly erroneous. Although some conservationists had given up the struggle, their ranks were filled by other volunteers, including professional and technical people who were incensed about what had occurred and anxious to seek a reconsideration of the decision. In private, some politicians were now prepared to admit that perhaps an error had been made, but it was thought to be too late to remedy the situation¹⁴⁶. The HEC was anxious to complete the Serpentine and Scotts Peak dams so that the Lake Pedder storage could be diverted into the main Gordon storage when the Gordon dam was only partially completed. It was claimed that under this arrangement the scheme would become operational in the shortest possible time. A necessary consequence of this strategy was that Lake Pedder would be flooded approximately three to four years before the Gordon project became fully operational. The assertion that it was too late to halt the project was a theme repeated many times in succeeding years, but in retrospect it is obvious that the Serpentine-Pedder section of the

144 Throughout Australia the environmental cause seems to lack legal and economic expertise, although scientific skills abound.

145 The Civil Branch tends to favour large scale dams and appurtenances; while the Electrical Branch is more receptive to the notion of thermal generation or other energy sources.

146 Legislators often tend to believe that a decision is sufficient, without recognising the implementation problems or that variations may be feasible.

Middle Gordon project could have been rescinded in 1968 without major financial penalty to the State¹⁴⁷.

The period 1969 to 1972 was one in which the environmentalists appeared to experience great difficulty in maintaining public interest in their cause. Many Tasmanians forcibly expressed the view that they were weary of the Lake Pedder conflict, yet the issue would not die. Background lobbying by many dedicated individuals, media coverage which clearly demonstrated the beauty of the Lake Pedder region, and growing recognition by the international scientific community of the area's unique flora and fauna, were having a cumulative effect¹⁴⁸. As publicity about the South-West increased, more and more Tasmanians and visitors to the State made pilgrimages to the lake by aircraft or on foot, a matter not without irony since the region had been neglected for a century and access was now eased by the Gordon Road, one day's walk from Lake Pedder. As the grandeur of the South-West became more widely known and more people visited the area, activism and mobilisation increased. A new and more radical conservation group, calling itself the Lake Pedder Action Committee, was established in 1971. Branches in mainland states were quickly formed and the Committee joined the Australian Conservation Foundation (ACF) in calling for a moratorium on the flooding of Lake Pedder and a statewide referendum on the issue¹⁴⁹.

By the early 1970s, the growth of electricity demand in Tasmania had begun to slacken, demonstrating that the forecasts of the conservationists

147 The incremental cost of saving the Lake would have been 5 to 10% of the total estimate, a small amount relative to the 15 to 20% 'standard' contingency allowance in major civil engineering works.

148 A number of international scientific organisations wrote to the Tasmanian Premier, drawing attention to the unique qualities of the Lake Pedder region, but such organisations were understandably reluctant to play a political role in the controversy.

149 When reason does not prevail, intransigence develops. By their attitude, the HEC and the State Government eliminated the prospect of detente. Within the conservation movement the need for more extreme action was becoming acceptable to the rank and file members.

were more realistic than those of the Hydro-Electric Commission.

In March 1971, the Bell Bay thermal power station, which had been under construction concurrently with the Middle Gordon power scheme, became operational¹⁵⁰. This station was designed essentially to provide system back-up in times of drought or high demand. Nonetheless, the fact that generating capacity was available, but left idle, strengthened the suspicions of the eco-activists that the haste to complete the Serpentine Dam and inundate Lake Pedder was an act of vindictiveness and ruthlessness on the part of the Hydro-Electric Commission¹⁵¹.

In 1969 the Reece Labor Government had lost office to a fragile Liberal-Centre Party coalition, but the new regime was preoccupied with its own survival throughout 1970 and 1971, and was reluctant to reopen the debate on the Middle Gordon project. Claims by the Government and some trade unions that de-watering the Serpentine storage to save Lake Pedder would prove costly and cause unemployment were inaccurate, since construction work on the low-level Serpentine and Scotts Peak dams was nearing completion and the labour force could have continued work on the major Gordon Dam and power station without any hindrance at all¹⁵². It was quite apparent that some politicians had merely enlisted the trade unions in spreading rumours to mislead the public and bolster an already weakened case¹⁵³.

The initial debate had been whether the Lake Pedder National Park should be flooded, but by 1971 the principal issue was Tasmania's economic strategy of 'hydro-industrialisation', based on an assumption that cheap

150 This station was to undergo a sad history. Initially intended for firing by Bass Strait natural gas, it was redesigned for oil operation but remained idle as system back-up almost throughout the 1970s. When oil prices escalated, conversion to coal-fired operation was proposed - a choice which should have been made in the first place.

151 In retrospect, the environmentalists' claim appears to be erroneous. It was probably error of judgment rather than vindictiveness that caused the problem.

152 The media never recognised this point, perhaps because debate about the aesthetics of the Lake Pedder region tended to overshadow other factors.

153 It is understandable that a Labor Government in trouble would try to enlist trade union support. In this instance scare tactics about unemployment sufficed to align union leaders with the Government.

hydro-electric energy would attract industry to the State. Never empirically tested, despite five decades of application, this article of faith now seemed suspect, given the high public investment involved in hydro-electric facilities and the low employment yield from capital-intensive extractive industries. Yet the environmentalists found difficulty in promulgating this message, largely due to the editorial policy of the State's newspapers¹⁵⁴.

The conservationists had now changed tactics, using the few engineers and economists within their ranks to challenge the HEC's assumptions and cost calculations about the Middle Gordon Power Scheme. The Commission was induced to make several public statements about the supposed costs of saving Lake Pedder, but as its figures proved inconsistent and escalated with time, it suggested that some confusion and prevarication was occurring in official circles.

On 24 November 1971, the Hydro-Electric Commissioner (Sir Allan Knight) despatched a statement to the Premier (the Hon. W.A. Bethune, MHA), outlining several ways to avoid flooding Lake Pedder, but omitting what many conservationists believed to be the most reasonable method, i.e. abandonment of the Lake Pedder storage with the use of pumps to lift the Serpentine River flow into the Gordon storage¹⁵⁵. The Tasmanian Conservation Trust, a voluntary conservation body formed in 1970, disclosed the supposed bias and unrealistic cost estimates contained in the Commissioner's statement, and the pumping proposal became the focus of efforts to save Lake Pedder¹⁵⁶. Requests for financial assistance

154 Although *The Mercury* newspaper in Hobart and *The Examiner* in Launceston published many letters for and against the flooding of Lake Pedder, the pro-development arguments were pushed in editorials.

155 It was not until late into the Select Committee's investigation that the HEC inadvertently disclosed that there were three alternative layouts which would have prevented the flooding of Lake Pedder. No itemized estimates were provided, and various costs were quoted but never confirmed.

156 For discussion of the alternatives see *The Pedder Papers : Anatomy of a Decision*, Australian Conservation Foundation, Melbourne, 1972; *Lake Pedder : Why a National Park must be Saved*, Lake Pedder Action Committee, Victoria and Tasmania, July 1972.

were forwarded by the conservationists to the federal Government in the hope that compensation might induce a change of heart within the State Parliament, but both major political parties were now so restricted by previous statements of commitment to the project that they refused to recant.

Rationality did not prevail in the political climate of the times and as the Lake Pedder conflict escalated, reason was abandoned, statistics were quoted out of context and a number of individuals were victimised by innuendo and peer group pressures. Critics are always conspicuous in small communities and job opportunities are limited for those who take a stand on principles, hence attacking Government policy required considerable moral courage. There was a surge of activity in June 1972, when conservationists attempted to launch a legal relator action over errors in the Middle Gordon legislation. The Attorney-General was forced to resign, although not before warning his Cabinet colleagues, who retrospectively passed a Doubts Removal Act¹⁵⁷. Earlier there had been a controversial element in the State election of April 1972, when the HEC used public funds to place advertisements in the press claiming that if the flooding of Lake Pedder was prevented, electricity tariffs would have to be increased. The United Tasmania Group (UTG), a conservation political party formed immediately prior to the election, only just failed to gain a seat in the House of Assembly, but claimed that the wording of the HEC advertisements was intended to prevent its candidates gaining election¹⁵⁸. The situation grew even more tense in September 1972 when a light aircraft, carrying a well-known Tasmanian conservationist on a lobbying mission to the federal capital of Canberra, disappeared en route. There had been threats of violence to the person

157 Relator actions of this kind are rarely successful, but the Attorney-General has the responsibility of determining when he must represent the public interest, by action against his own government.

158 See discussion in *The Pedder Papers : Anatomy of a Decision*, *op. cit.*, pp. 31-40.

concerned and a belief still persists that the aircraft was sabotaged¹⁵⁹.

By late 1961, intense pressure had developed for a State referendum on the Lake Pedder issue and a promise was extracted from the national Labor Opposition that if they came to power an independent inquiry would be conducted. The State Labor Government, which had regained power in mid-1972, indicated that it would not accept federal intervention in Tasmanian affairs. But Commonwealth money was involved, as the federal Government had provided \$47 million bridging finance in 1967 for the Middle Gordon Power Scheme. The State might protest, but the Commonwealth was clearly entitled to hold an investigation if its funds were being used on a project where the public interest was in doubt¹⁶⁰.

Following its election victory in December 1972, the Whitlam federal Labor Government moved swiftly to honour its promise to conduct an inquiry. A four-man Committee of Enquiry was established on 23 February 1973¹⁶¹. The terms of reference were to advise the Australian Minister for the Environment and Conservation (the Hon. Dr Moss Cass, MHR) on the circumstances leading to the flooding of Lake Pedder and '... to suggest what action, if any, might be taken to alleviate, or compensate for, any adverse consequence which may be considered to have arisen from the flooding of Lake Pedder'.¹⁶² Plainly the Commonwealth Government was contemplating prospective compensation to Tasmania if it was feasible to abandon plans for the Serpentine-Pedder storage. Time

159 'Sinister Turn in Light Plane Drama', *The Mercury* newspaper, Hobart, 13 September 1972, p. 3.

160 The Commonwealth Treasury is understandably reluctant to intrude into State matters, but some regional development projects are analysed for viability. The problem is that such evaluations are not standard practice or uniformly treated.

161 Members of the Committee were: Professor J.B. Burton (Chairman), Dr. W. Williams, Mr E. St. John Q.C., and Mr D. Hill.

162 Terms of Reference, 23 February 1973.

was of the essence if Lake Pedder was to be saved, as the rising Serpentine storage threatened to destroy the area unless de-watering began virtually immediately.

The Lake Pedder Committee of Enquiry conducted its analysis rapidly and diligently, despite the necessity to hear and examine a considerable volume of evidence and operate in a situation where the Hydro-Electric Commission refused to give evidence. Hearings were conducted in Hobart and Melbourne and an interim report submitted in June 1973. The final report of the Committee was released in April 1974¹⁶³. Both documents contained the same key conclusion : it was not only feasible to save the Lake, but there was an obligation to current and future generations of Australians to do so. The Committee recommended a moratorium on the flooding of Lake Pedder, Commonwealth financial compensation to Tasmania for modification of the Middle Gordon Power Scheme, and amended project evaluation methodology in all future schemes where multi-objective criteria might be involved. These proposals were further amplified in the final report, which also contained an eloquent minority report by Mr Edward St. John, Q.C., on conservation and the decision-making process in government¹⁶⁴.

In theory, Lake Pedder National Park had been saved; the feasibility of preserving the Lake, without inhibiting most of the major features of the Middle Gordon Scheme, had been clearly demonstrated. True, the Australian taxpayer would have to contribute, but the area was of national heritage significance and the burden would not be unduly high. However, the expectations and jubilation of the

163 Commonwealth of Australia, *Interim Report of the Committee of Inquiry into the Future of Lake Pedder*, June 1973, Commonwealth Government Printing Office, Canberra, 1974; also *Final Report of the Committee of Enquiry on the Flooding of Lake Pedder*, April 1974, Government Printer of Australia, Canberra, 1975.

164 See *Final Report*, *op. cit.*, pp. 181-196.

conservationists were soon dashed when the Labor Premier of Tasmania (the Hon. E.E. Reece, MHA) flatly rejected the Commonwealth's offer and stated that construction of the power scheme would continue¹⁶⁵.

4.8.3 Denouement

In the end, what counted was not economic rationality or aesthetic values, but what one observer referred to as '...the narrow perceptions of a bureaucratic juggernaut and the obstinacy of a politician whose pride had been hurt.' Similar sentiments were expressed by another commentator when he argued that no clearer example existed of the manner in which technocratic decision-making and political expediency outweighed long-term considerations in Australian natural resources management. The Middle Gordon Power Scheme was officially opened in April 1979; the debate about its cost and contribution to the Tasmanian economy continues¹⁶⁶. Yet the South-West saga was by no means over; events were in train that would lead to a second major confrontation between the Hydro-Electric Commission of Tasmania and environmentalists. This time the focus of attention was the lower reaches of the Gordon River and its principal tributaries, including the Franklin and Denison River systems.

4.9 THE FRANKLIN-GORDON RIVERS DEBATE

4.9.1 Towards Revised Methodology

One of the results of the Lake Pedder Enquiry was a set of guidelines constituting suggested project evaluation methodology for the future. Briefly summarised, the principal recommendations were

165 The Premier and the HEC claimed that the Lake Pedder Committee of Enquiry 'lacked expertise', but membership included two professional engineers with experience in the water resources field, a highly qualified scientist and a Queen's counsel. Tasmanian politicians resented what they believed was federal intervention in State affairs.

166 The power station has experienced technical problems and the energy demand has been consistent with the estimates of the environmentalists rather than the HEC, i.e. energy demand has grown at a far lower rate than the HEC predicted.

as follows:

- (i) Planning for large-scale resource development projects should be undertaken on a multi-objective basis;
- (ii) Such planning should be undertaken in the context of an overall regional land-use policy;
- (iii) Multi-objective planning requires the careful specification of comprehensive planning objectives and the establishment of effective criteria against which the extent to which these objectives are met can be evaluated;
- (iv) Optimal development of resources requires consideration of the variety of alternative ways by which the stated objectives might be achieved and the selection of the best of these alternatives;
- (v) Successful development of resources on a multi-objective basis depends upon interdisciplinary teamwork and the application of ecosystem management principles; and
- (vi) Effective planning for resource development projects also depends upon provision for independent review of the proposals put forward by the planning authority. 167

Detailed suggestions as to the manner in which these guidelines might be implemented were provided in the Final Report of the Lake Pedder Committee of Enquiry which was released in April 1974. The crucial question was whether the Tasmanian Government would implement such proposals when the next increment to the State power grid was proposed. Pressure was mounting on State Cabinet to consider South-West Tasmania as a regional planning problem, not only because of the Lake Pedder furore but also because of additional controversies concerning forestry practices and mining operations in the area¹⁶⁸. Details of these issues are provided in Chapters 5 and 6, but all contributed to demands to regard South-West Tasmania as an area of national and perhaps international significance.

167 Commonwealth of Australia, *Final Report of the Lake Pedder Committee of Enquiry on the Flooding of Lake Pedder*, April 1974, *op. cit.*, p. 164.

168 See discussion in Gee H., and Fenton J., (Eds.), *The South-West Book*, *op. cit.*, Parts 4 and 5.

4.9.2 Chronology of the Franklin-Gordon Rivers Debate

Even before the Middle Gordon Power Scheme was completed, pressure was being mounted by eco-activists for the Hydro-Electric Commission to disclose its intentions with respect to new power projects for the 1980s. It soon became evident that the major focus of investigation was the remainder of the Gordon River system, plus associated important tributaries, such as the Franklin River, Denison River and Davey River¹⁶⁹. Conservationists were utterly determined that these rivers would be saved and incorporated into the South-West National Park, a pledge initiated when one of Tasmania's leading conservationists, Olegas Truchanas, was accidentally drowned downstream of the Gordon Dam in January 1972.¹⁷⁰ Truchanas had been the prime mover for a huon pine reserve on the Denison River and pledged to save the wild rivers of the State. His loss was keenly felt by the environmentalists, but eventually resulted in the emergence of a charismatic leader of utmost integrity, Dr Bob Brown, who was instrumental in the formation of a vigorous new conservation body, the Tasmanian Wilderness Society¹⁷¹. It could be argued that both the Government and the eco-activists had learned much from the Lake Pedder conflict; during the next confrontation the tactics would be far more sophisticated. The Hydro-Electric Commission was attempting to defuse potential criticism by the periodic release of brief, but carefully worded statements about its investigations, while environmentalists were establishing the principal thrust of their campaign and gathering factual information to aid their cause.

169 Hydro-Electric Commission of Tasmania, *Report on the Capacity of the System to Accept Additional Load*, Hobart, February 1978.

170 Angus M., *The World of Olegas Truchanas*, The Olegas Truchanas Publication Committee, Hobart, 1975 (Republished several times in association with the Australian Conservation Foundation).

171 The Tasmanian Wilderness Society was established in 1976 by Kevin Kiernan, a former Lake Pedder activist.

Neither was the State Government idle, as it had begun to put in train a number of measures aimed at improved procedures for decision-making¹⁷². While ensuring that there would be increased opportunities for 'second opinions' about the energy situation, State Cabinet failed to recognise that for alternative perspectives to be effectively identified, guidelines and procedures were needed which would compel the Hydro-Electric Commission to seriously consider a wide spectrum of possibilities and allow other Government departments the time and money required to produce countervailing viewpoints¹⁷³. In practice, the disparity in resources proved enormous; the HEC expending ten years and nearly \$10 million on investigations, principally of one pre-selected layout, while other agencies were allowed only a few months and virtually no supplementary resources to prepare their response. Echoing previous practice, all the running was left to the Hydro-Electric Commission, with the other participants endeavouring to have their voices heard in political forums where attention was almost entirely devoted to specific details of the HEC proposal.

One prospective means of constraining the hydro-electric development or identifying other options, was to consider the entire spectrum of land-use possibilities for the South-West region as a whole¹⁷⁴.

172 Under strong pressure from environmentalists, the State Government announced that it would bring the HEC under ministerial control and that a State Energy Directorate would be created to provide an overview and 'second opinion' on energy strategy. In practice, neither aim was wholeheartedly pursued.

173 For example, the HEC was not subject to the Environmental Protection Act. The Department of Environment attempted to persuade the Commission to prepare a detailed environmental impact statement of each energy option. The HEC merely produced one statement dealing with some aspects of its preferred option.

174 Due to the functional fragmentation of resource management in Tasmania, no agency was charged with providing an overview. Such a perspective was essential for informed decision-making at the political level.

This attempt at rational resource allocation was initiated by the then Minister for National Parks (the Hon. N.L.C. Batt, MHA) who established a three man advisory committee under the chairmanship of Sir George Cartland, CMG, in November 1975¹⁷⁵. The South-West Advisory Committee faced a most difficult task, given the diversity of issues involved and the legacy of past disagreement about conservation versus development. From its inception, the Committee adopted open and participatory procedures, allowing a wide range of public submissions and interest group representations. Its democratic approach had one significant weakness, however, it was time-consuming and in the meantime various exploitative interests continued to encroach upon South-West territory and resources.

The interim report of the Committee, released in May 1976, pleased nobody, for although the South-West was identified as a region of world heritage significance, no move was recommended to declare the entire region a national park, nor were any curbs placed on existing development rights, even those regarded as inappropriate¹⁷⁶. Instead, it was suggested that all South-West Tasmania should be gazetted as a conservation area, with some localities zoned for ultimate incorporation into a national park and other areas licensed for development, but under strict environmental safeguards. No interim protection was provided until these measures could be put into effect¹⁷⁷.

The final report of the South-West Advisory Committee was released in August 1978, but not commented upon by the Government until March 1979¹⁷⁸.

175 Members of the Committee were Sir George Cartland (Chairman), Mr G.J. Foot and Mr A.G. Ogilvie.

176 South-West Advisory Committee, *Preliminary Report*, Hobart, 28 May 1976.

177 This was a significant weakness given the extensive time-horizon for investigation and reportage by the Committee.

178 South-West Advisory Committee, *Report*, Hobart, August 1978 (The Cartland Report).

In this report the Advisory Committee recommended the establishment of a small independent South-West Authority to manage the region, but the proposal was rejected by the Premier who stated that Cabinet must retain its major decision-making role and powers. He proposed the establishment of an independent three-man advisory committee to assist Cabinet, and amendments to the National Parks and Wildlife Act and Forestry Act to provide for more participatory management planning¹⁷⁹. It was widely rumoured within the community that this watering down of the South-West Advisory Committee's recommendations was the result of intensive lobbying by some public agencies and timber interests. Supporters of Westminster-style government welcomed Cabinet's open declaration of responsibility for decision-making, but the key question was whether this would be achieved in practice. Despite good intentions, Cabinet's control of the situation gradually eroded, with many public authorities obtaining ad-hoc decisions in their favour and very little attempt being made to enforce rational debate about land-use options¹⁸⁰. The scramble for empire would eventually prove just as chaotic as it had been during the Lake Pedder campaign.

While the South-West Advisory Committee was conducting its deliberations, a random set of events was occurring which would ultimately shape the Franklin-Gordon Rivers debate. Primary amongst these factors was the establishment of a new environmental group, The Tasmanian Wilderness Society, formed in 1976 by a group of young bushwalkers and canoeists determined to protect the remaining wild rivers of the South-West,

179 Ministerial Statement by the Premier of Tasmania, 20 March 1979.

180 There was an assumption at Cabinet level that all departments and corporations involved in land-use within the South-West Conservation Area would pursue their duties diligently and co-operatively. In practice, parochial interests prevailed during the implementation phase and a kind of 'territorial imperative' occurred. This atmosphere is not unique to the Franklin-Gordon case. See Leavitt R., *Implementing Public Policy*, Croom Helm, London, 1980.

especially the Franklin River system and Lower Gordon River, both of which possess superb gorges and rain forest scenery¹⁸¹. From its inception the Wilderness Society displayed shrewd political sense, both in its careful choice of tactics and in the creation of a viable economic base and membership. Branches and affiliated groups were established throughout Tasmania and eventually in the mainland States, and a series of promotions and audio-visual presentations were planned to generate funds and convey the Society's message to the public¹⁸². At consultative meetings with other environmental bodies, a division of labour was agreed upon, with the Tasmanian Conservation Trust Inc., and the Australian Conservation Foundation providing essential research support and the latter organisation stationing a project officer in Tasmania¹⁸³. The Wilderness Society grew rapidly and soon had a hard-working volunteer base operating full time in Hobart. An excellent strategy was selected, to project a wilderness message while confronting the HEC at its most vulnerable point: its demand estimates and forecasts of project costs. But perhaps the most effective weapon in the Society's armoury was its Director, Dr Bob Brown, a charismatic leader of charm and integrity, whose capacity to debate in a reasoned manner was instantly recognised and accepted by the media¹⁸⁴.

Meanwhile the Hydro-Electric Commission was falling on harder times. Stop-go policies with respect to the Pieman River Power Scheme and cost escalations of four times the initial estimate were making its claims less plausible, especially as its one thermal station at Bell Bay was idle

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- 181 Many of the founders of the Tasmanian Wilderness Society had first gained wilderness experience with the inspirational photographer and explorer, Olegas Truchanas.
 - 182 The Wilderness Society recognised at the outset the need for an advertising campaign in the media and set out to amass the necessary financial resources.
 - 183 The Australian Conservation Foundation recognised that operating a campaign from Melbourne would not suffice; there had to be an articulate spokesman and catalyst in the Hobart area.
 - 184 Dr Brown is an ardent canoeist, a persuasive orator and a calm and reasoned spokesman.

through lack of demand and the high cost of its oil-fired operations¹⁸⁵. Nevertheless the Commission did not hesitate to press the point that a major new power scheme would be needed in the 1990s and with the need to allow for construction lead time, a decision by late 1981 was desirable. The favoured layout would be integrated development of the Franklin-Lower Gordon River systems¹⁸⁶. With this prospect in view, the Wilderness Society redoubled its efforts to persuade the public in favour of energy conservation, co-generation, thermal options and power schemes outside the South-West, at the same time emphasising the fact that although industry was getting low cost energy it was not solving Tasmania's unemployment problems¹⁸⁷.

In October 1979 the Premier announced that an Energy Advisory Council would be appointed to provide State Cabinet with an independent assessment of future energy needs; a moratorium on new developments in the South-West Conservation Area would be introduced and other actions would be taken to structure public participation in the energy debate¹⁸⁸. A three man South-West Tasmania Committee was appointed in June 1979 to advise State Cabinet on land-use matters relating to the South-West, and the Department of the Environment was instructed to advise the HEC as to the guidelines it should use in preparing an environmental impact assessment of its proposals¹⁸⁹. The situation was not entirely calm,

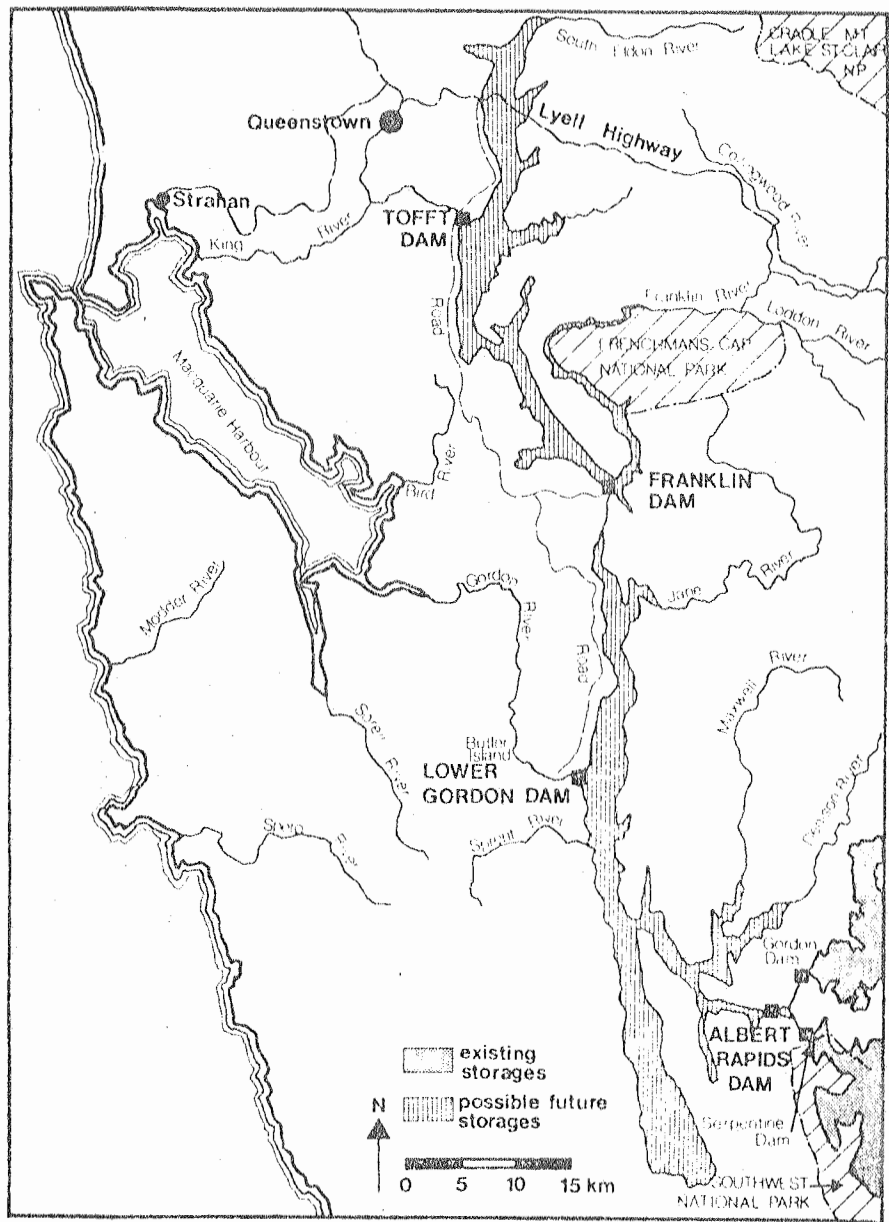
185 The Bell Bay station was intended for system back-up and peak loading, but because of economic recession, slow load growth and high oil prices, operated infrequently and at considerable cost.

186 Periodic reports and articles in the HEC's house journal *Cross Currents*, 1978 and 1979.

187 The Wilderness Society acted as spokesman for the conservation cause, but the background research was carried out by the Tasmanian Conservation Trust Inc., and the Australian Conservation Foundation.

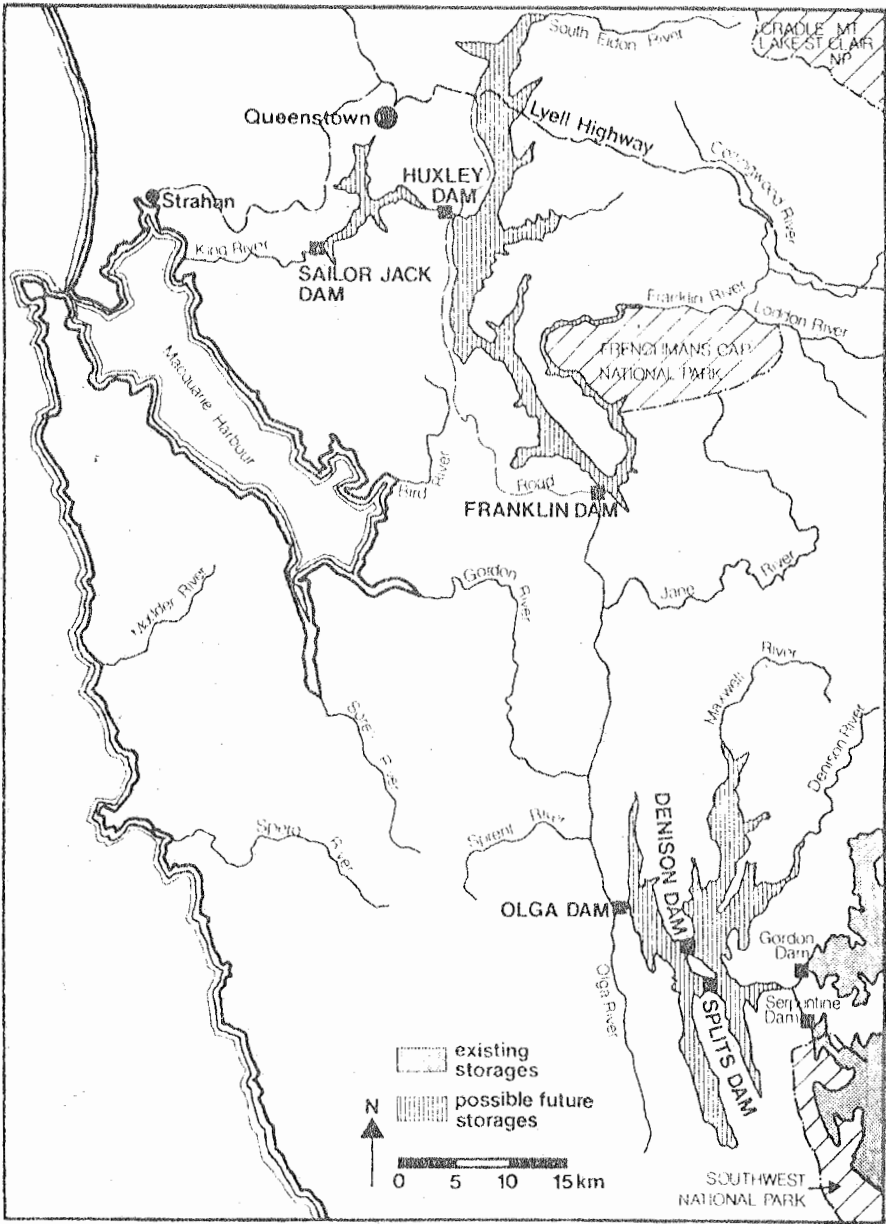
188 Opportunities would be provided for public comment on the HEC Report when released. Government departments and statutory authorities would also be invited to make submissions.

189 Members of the Committee were Mr R. Graham (Chairman), Mr G.J. Foot and Mr B.W. Davis.



INTEGRATED DEVELOPMENT: King diverted into Franklin, power station at Franklin Dam. Lower Gordon Dam to back up combined water of the Gordon and Franklin. Source: HEC publications

MAP 4 : INTEGRATED DEVELOPMENT OF THE LOWER GORDON, FRANKLIN AND KING RIVERS, SOUTH-WEST TASMANIA



SEPARATE DEVELOPMENT Franklin diverted into King, generation of power on the King River, Gordon dammed upstream of the Olga River. Source: HEC publications

MAP 5 : SEPARATE DEVELOPMENT OF THE LOWER GORDON, FRANKLIN AND KING RIVERS, SOUTH-WEST TASMANIA

however, with the Hydro-Electric Commission and the Wilderness Society engaging in frequent debates about layouts and estimates and the HEC threatening legal action for alleged libel against a consultant to the Department of the Environment¹⁹⁰. In practice, the Department of the Environment could not direct the HEC to prepare an impact statement; the most it could do was to advise such action.

On 16 October 1979, the HEC tabled its report in the Tasmanian Parliament on the Franklin-Lower Gordon Power Development. As anticipated, the recommended layout was an integrated scheme producing 340 MW firm average output (630 MW peak capacity) at an estimated cost of \$1360 million - a sum dwarfing the previous expenditure on hydro-electric projects in Tasmania¹⁹¹. The response was equally predictable, with many spokesmen of various interests either approving or condemning the proposal and calling for immediate acceptance or rejection by State Parliament. The Premier assured the Tasmanian community that a hasty decision would not be taken and that comments would be sought on the HEC report. Interested parties were asked to forward their comments by 24 January 1980 to the Directorate of Energy, which serviced the Energy Advisory Council, so that the Government could take account of all relevant information before reaching its decision¹⁹². A small Co-ordinating Committee would be formed to process submissions and consider any comments by Government agencies, including the Directorate of Energy. To further complicate the situation, the State National Parks and Wildlife Service tabled a report in November 1979 seeking the establishment of a major Wild Rivers National Park in the very areas the HEC were claiming for power development. The National Parks Service

190 The consultant had argued that the HEC was not only selectively gathering evidence, but was misinterpreting the information.

191 Hydro-Electric Commission of Tasmania, *Report on the Gordon River Power Development Stage Two*, Hobart, October, 1979.

192 This date was later modified because of the large number of submissions received.

had been working on the wild rivers proposal for some time but had not fully completed the detailed assessment until late 1979¹⁹³.

The HEC's Report on the Gordon River Power Development Stage Two (the Franklin-Gordon proposals) consisted of nearly 1700 pages of information, compiled into a major report and eight volumes of appendices. While more data were supplied than in any previous project investigation, much of the presentation was technical in character, and the purchase price of over \$350 per set was a clear deterrent to perusal by interested parties. Following complaints by conservationists, the Premier agreed to produce the documents in newspaper form for wide distribution¹⁹⁴. One interesting aspect of the report was the identification of a coal-fired thermal power station option as a second choice. The Hydro-Electric Commission had always strongly denied the viability of coal generation in Tasmania, arguing that local resources were of poor quality and that no reliance could be placed on mainland supplies due to shipping difficulties. However, because of the discovery of more extensive coal deposits within Tasmania a change of heart was now evident, but the HEC continued to insist that operation costs for a thermal station would be high, a matter strongly disputed by the Mines Department, eco-activists and some engineers.¹⁹⁵ Critics of the HEC's proposals protested that the brief period permitted for submission of evidence would not enable them to assemble the necessary information. The HEC had spent \$10 million and a decade on investigations, yet the conservationists were allowed less than three months and were given no resources. Such critics were firm in their belief that despite the

193 Tasmanian National Parks and Wildlife Service, *Proposal for a Wild Rivers National Park (The Franklin-Lower Gordon Rivers)*, Hobart, 1979.

194 This attempt to increase public awareness was not entirely successful. The 'newspaper' version of the report proved difficult to read and many copies were unused.

195 The Mines Department challenged a number of statements in the HEC report, but the Commission succeeded in suppressing this information.

magnitude of the Lower Gordon Report, it contained many incorrect assumptions and judgments¹⁹⁶. Behind the scenes, the Co-ordinating Committee appointed by the Premier, began collating the evidence for presentation to Cabinet early in 1981.

In February 1981 the Tasmanian Conservation Trust Inc., released a major study entitled An Energy Efficient Future for Tasmania¹⁹⁷. This study challenged the entire basis of HEC assessment, arguing that end use of energy related to price; that industry consumed vast quantities of electricity for very small employment gains; that HEC claims of future demand were highly speculative and that major energy conservation programmes were feasible in Tasmania. The technical nature of the study was intended to force an open debate of the HEC's calculations, however this rendered it less intelligible to the layman, and so much of the message was lost on the public¹⁹⁸. Meanwhile over 480 proposals had been received by the Co-ordinating Committee, of which only ten favoured the HEC proposals or were neutral to them. On the other hand, Government agencies such as the Treasury favoured the Commission's claims¹⁹⁹. The Premier had intended that a Joint Select Committee of State Parliament should examine the collated evidence, but the proposal was boycotted by the Liberal Opposition (which favoured the HEC recommendations) under pressure from some of the major industrial energy users²⁰⁰. The

196 A number of academics disputed the scientific evidence, but more particularly its interpretation.

197 Harwood C., and Hartley M., *An Energy Efficient Future for Tasmania*, op. cit.; see also *Free Currents : The Vanishing Wilderness*, South-West Tasmania Committee (NSW), Sydney 1980.

198 Another important document suffered the same fate, being expressed in technical language, rather than for the layman. See Saddler H., Bennet J., Reynolds I., and Smith B., *Public Choice in Tasmania: Aspects of the Lower Gordon River Hydro-Electric Development Proposal*, Centre for Resource & Environmental Studies, Australian National University, Canberra, 1980.

199 See The Co-ordinating Committee on Future Power Development, *Report to the Premier*, Hobart, May, 1980.

200 The Liberal Opposition decided to favour the HEC proposals even before comment on the Commission's report became available.

Government would have to reach its decision alone and hope that the Upper House (Legislative Council) would endorse its legislation. In the interim, the Hydro-Electric Commission had forced the withdrawal of certain Mines Department evidence, after claims of errors and prospective libel. It was becoming a favourite tactic of the Commission to bring legal pressure to bear whenever it felt itself threatened²⁰¹.

In June 1980, the Co-ordinating Committee's report dated May 1980 was released. The principal recommendation ran counter to the HEC proposals, urging construction of a coal-fired thermal station of 200 MW capacity by 1985, followed by some hydro development, possibly the Gordon-above-Olga proposal, and not the HEC's Franklin-Gordon scheme²⁰². The Co-ordinating Committee's recommendation was not unanimous; the HEC Commissioner dissenting from the conclusion and the Director of the Environment querying whether the demand estimates were acceptable. The South-West Tasmania Committee also released a report arguing against further hydro-electric development in the South-West and the Department of the Environment and the National Parks and Wildlife Service released statements highly critical of the HEC's environmental impact assessment²⁰³. The Australian Heritage Commission also announced that South-West Tasmania would be placed on the register of the National Estate as an area of national significance warranting preservation²⁰⁴. Adding to the HEC's anxieties, the Wilderness Society and its supporters conducted one of the largest street marches ever held in Tasmania, with 6,000-10,000 persons participating and similar rallies were held in other States,

201 As previously noted, the HEC used this tactic during the Lake Pedder campaign.

202 The Co-ordinating Committee disputed the HEC's demand estimates and therefore reached different conclusions to the Commission, especially noting the need for an increment to the generating system by the mid-1980s.

203 South-West Tasmania Committee, *Report on the Proposed Hydro-Electric Power Development in South West Tasmania*, Hobart, July 1980; note also Tasmanian National Parks and Wildlife Service, *Review of the HEC Report on the Gordon River Power Development Stage Two*, Hobart, January 1980; Kirkpatrick J., *Hydro-Electric Development and Wilderness in Tasmania*, Department of the Environment, Hobart, November 1979.

204 This recognition had no binding effect in law, but placed moral suasion on the State and Commonwealth Governments to safeguard the area.

an indication that the conservation cause was united, enjoyed good community support and was bringing pressure to bear on Government²⁰⁵.

Alarmed by these developments, employees of the HEC quickly banded together to form the Hydro Employees Action Team (HEAT), levying the Commission's staff to fund an advertising campaign against the demands of the conservationists. A local business analyst (Mr John McKean) helped create the Association of Consumers of Energy (ACE), another pro-hydro group largely funded by industry contributions. The lobbying process became more complex, with various attempts under way both to denigrate the environmentalists and to persuade conservative members of the Legislative Council to reject all alternatives other than the HEC recommendation for an integrated Franklin-Lower Gordon scheme. It became obvious that politicians from the north of the State were reluctant to have a coal-fired power station - even of modest scale - in their area, and that an atmosphere of paranoia was being created amongst northern residents by hydro supporters²⁰⁶. Countervailing such activities, however, were a number of public opinion polls which tended to show strong community support for saving the Franklin River gorges and incorporating them into a Wild Rivers National Park²⁰⁷.

In July 1980, State Cabinet met in closed session for several days to consider the conflicting reports before it. Such deliberations are confidential, but it soon became evident that thermal options would not be accorded serious consideration, mainly due to feared environmental implications and the strong pressure to provide work for the Hydro-Electric Commission's large construction staff. On 11 July the Premier

205 This march in June 1980 surprised both the Government and its critics, but a number of public opinion polls had previously indicated strong public support for saving the Franklin River.

206 The scale of thermal power stations investigated by the HEC are small by world comparison. Although environmental problems would arise, they would be modest in scale and largely controllable.

207 Political scientists are aware of many deficiencies in public polls, but in this instance the evidence appeared to be consistently in favour of the conservation argument by a considerable margin.

announced State Cabinet's decision to reject the Hydro-Electric Commission's recommendation and to proceed with the alternative Gordon-above-Olga layout²⁰⁸. Although conservationists were jubilant at the apparent saving of the Franklin and Lower Gordon Rivers and congratulated the Government on its wisdom and foresight, they were unhappy about the Gordon-above-Olga proposal. They recognised that a threat to the South-West still remained and that ultimately they would be forced to fight that project also²⁰⁹. The State Opposition, the HEC, and various members of the Legislative Council condemned the Cabinet decision and pledged to fight it all the way, blocking legislation if feasible.

Throughout late 1980 and into 1981, the confrontation intensified, first with the conservationists and later HEAT and ACE using the media to debate various aspects of the issue, such as alternative hydro sites outside the South-West, thermal options and possible Bass Strait connection to the electricity grid of the eastern States, energy pricing and industry bulk energy purchases, energy conservation programmes and co-generation prospects, and long-term development prospects in Tasmania²¹⁰. Despite all the rhetoric, two facts were clear : not all the options were given equal consideration (indeed, some were deliberately concealed), and ambiguity existed about many of the cost estimates whose accuracy was highly suspect. In the end it was value judgments and political considerations which were debated, rather than economic realities or social or environmental factors.

208 The HEC's second best alternative was a thermal station, but Cabinet was strongly influenced by the need to find employment for the Commission's large work force and therefore favoured the hydro option.

209 It may have been a wiser tactic for the eco-activists to support the Olga proposal. By questioning the Government's decision they allowed time for the HEC and the State Opposition to press for the HEC's original proposal.

210 Many of these issues were canvassed at a symposium organised by ANZAAS (The Australian and New Zealand Association for the Advancement of Science) in February 1980, but subsequent media coverage was much more superficial and many important aspects never gained public recognition.

When legislation for the Gordon-above-Olga proposal was passed by the House of Assembly in mid-1980 and transmitted to the Legislative Council, that body appointed a Select Committee of Inquiry²¹¹. After much wrangling and backroom lobbying, the Select Committee recommended, by a majority decision, that the HEC proposals should be adopted and the Government's Gordon-above-Olga alternative be rejected. In a stormy passage, during which standing orders were suspended to override its own President, a majority of the Legislative Council members forced through an amendment to the bill, displacing the Lower House's proposal and substituting its own. When State Parliament adjourned for the Christmas recess, several conferences of managers of both Houses had failed to agree and an impasse had been reached. As at mid-1981 the situation remains unresolved, with the possibility that the Legislative Council will refuse to pass the State budget in late 1981, causing a House of Assembly election, without itself having to face the people²¹². Despairing of consensus, the Premier announced on 31 March 1981 the gazettal of a Wild Rivers National Park, protecting the Franklin River system and portion of the Lower Gordon River, but excluding many of the areas that the conservationists wished to preserve²¹³. Thus far the intransigence of the Legislative Council has prevented any hydro-

211 The Select Committee was established on 30 May 1980 and was given broad terms of reference, including the assessment of energy demand and identification of socio-economic implications of the various options. In practice, it concentrated almost entirely on the respective merits of the HEC's Lower Gordon Dam and the Government's Gordon-above-Olga alternative.

212 Tasmania is perhaps unique in that the Upper House can force an election, without itself having to face the voters. For a summary of the Legislative Council's viewpoint see its Select Committee Report, *Future Power Development Progress Report*, 11 December 1980. Note also HEC lobbying through a further statement, *The Effect on Power Development of a Decision not to use the Hydro Potential of the Franklin River*, October 1980, and a countervailing viewpoint, Burton J., *Proposals for Future Power Development in Tasmania: A Critical Appraisal*, a report to the Directorate of Energy, April 1981.

213 Last minute excisions from the National Parks Service proposals were made presumably at the request of the Forestry Commission and Mines Department. (Evidence available to the South-West Tasmania Committee but not publicly revealed.)

electric development in South-West Tasmania, thereby buying time for the Wilderness Society to press for a Commonwealth Government Committee of Inquiry²¹⁴. A fragile victory for environmentalism has been achieved, but uncertainty still remains about the outcome of the Franklin-Gordon Rivers controversy and the future of Tasmania's energy strategy.

4.10 LESSONS OF EXPERIENCE

With the wisdom of hindsight it can be argued that the Lake Pedder controversy was the first major dispute of its kind in Tasmania, in terms of scale and intensity; yet not of superior magnitude to other environmental conflicts in other jurisdictions²¹⁵. The campaign proved a protracted and somewhat bitter learning experience for politicians, public servants and conservationists alike, and one might have thought that the lessons and implications of the debate would have impinged upon public consciousness to such a degree that duplication of the conflict would have been studiously avoided. Yet the Lake Pedder conflict left a divided community, where despite some attempts by the Tasmanian Government to structure the evaluation of the next project assessment, i.e. the Franklin-Lower Gordon Rivers proposal, major disputation occurred in the form of a conflict between the State's largest public corporation and the Government it purported to serve²¹⁶. Resolution of that dilemma is not yet in sight, since the community itself must ultimately determine what economic development strategy Tasmania will pursue.

214 A Commonwealth Government inquiry would be resented in Tasmania, but there appears to be no other way in which the national interest could be considered. The Wilderness Society face substantial obstacles to the establishment of a federal inquiry.

215 Note the controversy surrounding many other water resource projects, such as the Ord River Scheme and irrigation projects in New South Wales and Queensland.

216 The Hydro-Electric Commission did not openly challenge the Lowe Labor Government, but its spokesmen promulgated the Commission's viewpoint while senior officers briefed Legislative Councillors (i.e. members of the Upper House) behind closed doors.

It is quite evident that both the Lake Pedder and Franklin River controversies involved escalation of conflict to a stage where unreason occurred. Where wild accusations abound, the media reports only sensational events and few conflict resolution mechanisms exist, the social cost is generally high²¹⁷. Technocrats are prone to oppose public participation on the grounds of prospective delay to projects, or the inability of the public to comprehend complex issues, but such imputed penalties pale into insignificance when compared with the community cleavages induced and costly review procedures required, if access to decision-making is impeded and serious confrontation arises.

Australian government has a deservedly poor reputation for bureaucratic secrecy and the Lake Pedder case is a classic example of such deficiencies, involving lack of disclosure, misleading statements and evasion of public questioning about options²¹⁸. Project designers have a tendency to claim that it may be premature to release information early in the investigation phase since the public might be misled about intentions, but major project layouts do not materialise overnight and consultation at an early stage would appear to have more beneficial effects than restricting public comment until details are finalised and various options foreclosed. Without doubt, the intransigent attitude of Hydro-Electric Commission staff and the tendency of its professional engineers to adopt an elitist attitude towards the public, was a major catalyst during the Lake Pedder campaign in rallying people to the conservation cause. Note also the manner in which initial naive attempts by environmentalists to have reasoned discourse with government gradually became replaced by more militant attitudes, as attempts at

217 In a small State such as Tasmania, media reportage is often superficial and editorial policy reflects 'establishment' views because of dependence on advertising revenue.

218 Note that the option which might save Lake Pedder from being flooded was only inadvertently disclosed by the HEC late in the Legislative Council's investigation.

public inputs to decision-making became frustrated²¹⁹.

In its own curious manner, the Hydro-Electric Commission of Tasmania tried to circumvent criticism during the Franklin-Lower Gordon energy debate by producing a massive ten volume report, in contrast to earlier slender documentation. But key technical features and economic data were presented in a format and terminology unintelligible to the layman, moreover the Commission's tendency to focus on its own preferred option meant that other alternatives were thinly investigated and briefly reported²²⁰. The analysis simply did not encompass wilderness values, nor deal with other important variables, such as the social and ecological implications of large scale capital development²²¹. Burton's suggested framework of multi-objective planning was ignored, as were other innovative methodological approaches advocated by the Australian Water Resources Council. In essence, new methods of evaluation failed to reach the workplace²²². In the end, the quality of reportage did not really matter; sufficient doubt had been generated in the minds of Cabinet members by pressure from conservationists that the HEC's proposal was rejected in favour of the creation of a Wild Rivers National Park. It remains to be seen whether this decision will prevail in the face of ongoing opposition by the Hydro-Electric Commission, and bulk energy users anxious to preserve their favourable tariff structure.

Inexperience proved costly to the eco-activists in the initial phases of the Lake Pedder controversy, and a tactical error appears to have been made in relying upon the beauty of the Lake Pedder region as justification

219 Although a succession of increasingly militant and activist conservation groups appeared during the Lake Pedder campaign, some membership was common throughout.

220 This created some difficulties for Cabinet in that when the Premier requested additional information about the cost of various options, the HEC could not produce such information.

221 For critical comment on the HEC Report see Government of Tasmania, South-West Tasmania Committee, *Report on Proposed Hydro-Electric Power Development in South West Tasmania*, Hobart, October 1980.

222 O'Brien W., Thornley A., Atkins A., *Multi-Objective Planning for Water Resources Development*, Australian Water Resources Council Technical Paper No. 27, Australian Government Publishing Service, Canberra, 1977.

for its preservation, without clear identification of viable energy alternatives. In Chapter 3 it was argued that advance warning, careful selection of strategies and the ability to mount reasoned but sustained campaigns are essential prerequisites for success in advocating the conservation cause²²³. The environmentalists' fragile victory in the Franklin-Lower Gordon campaign stems from three factors: charismatic leadership, carefully chosen tactics and the ability to demonstrate sufficient expertise to challenge the HEC's estimates, as well as improved cohesiveness within the conservation movement itself. Various organisations such as the Wilderness Society, the Tasmanian Conservation Trust Inc., the Australian Conservation Foundation and others, all played a selective and carefully orchestrated part in the total strategy. The Hydro-Electric Commission adopted a siege mentality which did not serve its cause well, and only in the latter stages of the debate when an employees' group (HEAT) and leading industrialists joined forces, did countervailing pressure develop against the eco-activists²²⁴. Only in the conservative Legislative Council was the myth of hydro-industrialisation stoutly defended; most other parties to the dispute questioned where Tasmania was headed, but disagreed about prospective courses of action.

All in all, the conservationists were generally more sophisticated in tactics than previously and their obvious determination had a considerable impact upon an uncertain and sometimes confused government. There was still a tendency to adhere to fine principles when political pragmatism might have proved more productive, and the intensity of activism was bound to provoke some countervailing response, nonetheless the environmentalists were extremely positive in outlook and did identify options for the community.

223 It is not claimed that these are the only factors involved, but they appear to be key elements of pressure group activity.

224 Once major industrialists entered the debate, a group of small business men engaged a consultant to express their viewpoint, which differed from that of the major energy users and was strongly pro-conservationist. The new group called itself The Business Association for Economical Power (BAEP).

A slender victory was achieved, but ensuring its durability may prove an equally taxing assignment²²⁵.

PART C: BOUNDARIES OF ANALYSIS

4.11 THE PROBLEM REVISITED

Parts A and B of the Chapter have demonstrated two points:

- (i) many hazards attend project evaluation procedures and the authorisation of projects; and
- (ii) attempts by conservationists to enforce reform of project analysis have proved rather difficult, not so much by lack of intent within government, as by the obstruction of certain bureaucratic forces and the sheer confusion and pressure of policy-making.

This poses the question of whether there are limits to analysis and how management of development may be accomplished in such circumstances. Are the eco-activists unrealistic about effective public participation in decision-making?

In addressing the above issue, it would seem that at least three sub-elements might have to be considered:

- (i) how do options become identified?
- (ii) does debate ensure adequate attention to all options, so that they are given reasonable consideration within the political process? and
- (iii) when quantitative and qualitative factors must be addressed, are non-monetary values given appropriate weighting within decision procedures?

Underlying all the above is the question whether access for diverse viewpoints really exists or whether options are foreclosed long before proposals reach

225 The Tasmanian community is likely to face an energy referendum in late 1981 and this could reverse the Government's decision to build the Olga Power Scheme.

the executive and legislature. If so, can anything be done about the situation?

Three volumes published in recent years provide valuable comment on these matters. Feiveson, Sinden and Socolow's Boundaries of Analysis: An Inquiry into the Tocks Island Dam Controversy is particularly useful²²⁶. After carrying out what was perhaps one of the most extensive and intensive ex-post evaluations of a cost-benefit study and its relation to the political and administrative process, the authors concluded that the 'experts' really knew very little and that failures of discourse occurred simply because key issues were sometimes inadvertently, sometimes deliberately, excluded from consideration. The question arises, do we expect too much rationality in decision-making? Is disorder inevitable? The authors think not, but to obviate the dangers, political will and specific procedures are called for. Feiveson, Sinden and Socolow are particularly concerned about the freedom granted to technical experts, such as engineers, to define the initial parameters of investigation. They believe that one-dimensional 'specification of the problem' and 'identification of options' excludes many variables and forecloses some prospects at the outset of the studies²²⁷. Feiveson, Sinden and Socolow are equally critical of 'golden rules' and 'golden numbers' which shape the mode of cost-benefit evaluation, and thus implicitly agree with comment in this Chapter that factual content is small and subjective judgments usually govern²²⁸.

The authors are concerned about the degree of freedom granted to technocrats to determine the mode and depth of investigation, as well as selecting the variables which will undergo examination. They argue for earlier public and political intervention, not in detail, but at least to ensure that appropriate questions are being asked before detailed evaluation commences²²⁹.

226 Feiveson H., Sinden F., Socolow R., (Eds.), *Boundaries of Analysis: An Inquiry into the Tocks Island Dam Controversy*, Ballinger Publishing Co., Cambridge, Mass. 1976.

227 *Ibid*, pp. 317-355.

228 *Ibid*, pp. 12-20.

229 *Ibid*, pp. 148-161.

Opportunities for comment should be time-phased at appropriate intervals throughout analysis, but this is feasible only if the political will exists to enforce it; a somewhat doubtful prospect. Feiveson, Sinden and Socolow do not mention any specific role for environmentalists, but patently their lobbying and representations constitute one of the few current checks on bureaucratic power. Intervention by other government agencies is also desirable, but politicians have the mistaken tendency to order them out of the debate until development proposals are firmed up, or else make the naive judgment that close consultation is bound to be occurring. This touching faith in sensible communication is not always rewarded²³⁰.

Although Boundaries of Analysis is an extremely important study, its findings had already been foreshadowed by a variety of other authors such as Marshall, McKean, Haveman, Krutilla and others²³¹. There is ample evidence that improved project evaluation procedures are feasible, but Feiveson, Sinden and Socolow are perhaps unduly optimistic about the capacity or will of politicians to structure improved inputs to decision-making. It is far more likely such reforms will only be achieved through training programmes within professional institutions or relentless pressure from eco-activists²³². Hood's The Limits of Administration is a salutary reminder that project evaluation and authorisation will never be a completely 'rational' or tidy process²³³. Commencing from an ideal model of bureaucracy, Hood relaxes various assumptions relating to adaptation, control and organisational limits, to demonstrate that achievement is always constrained in a variety of ways. Hood does not believe these dilemmas or all contingent factors can be treated; there is always a gap between political belief and administrative reality.

230 *Ibid*, Chapter 1, 'Failures of Discourse' pp. 9-40.

231 Marshall H., 'Rational Choice in Water Resources Planning' in Burton I., & Kates R. (Eds.), *Readings in Resource Management and Conservation*, op. cit. pp. 529-543; McKean R. *Efficiency in Government Through Systems Analysis*, op. cit.; Krutilla J.V. & Fisher A. *The Economics of Natural Environment*, John Hopkins Press, Baltimore, 1975.

232 Gooding J. 'The Engineers are Redesigning their own Profession', *Fortune*, June 1971, pp. 72-75 and 142-146.

233 Hood C., *The Limits of Administration*, John Wiley and Sons, London, 1976.

Anti-bureaucratism is not an appropriate road, according to Hood, but rather there is a need for promotion of attitudinal change. This perspective is fully shared by Tribe, Schelling and Voss in their interesting text, When Values Conflict²³⁴. Tribe et. al. argue that the primary requisite for environmental reform is to promote an awareness amongst decision-makers of the value of Nature and a willingness to recognise the beliefs of minorities, as well as the will of majorities. In essence, Tribe, Schelling and Voss are advocating more in-service training of technocrats, so that innovative forms of social impact analysis will be incorporated into project assessment. Unfortunately, values training is not yet a component of professional education, hence a considerable timespan may elapse before new attitudes are inculcated²³⁵. One benefit of eco-activism is that it does force specialists to examine their assumptions and beliefs.

4.12 OTHER PERSPECTIVES

Rather than specifically seeking a change in values, some environmentalists argue for restructuring of natural resource agencies, such as water resource authorities. The aim is usually to give greater prominence to environmental units or to dismember large corporations into smaller and more competitive divisions²³⁶. This concept gains some support in the literature. Maass, for example, has argued for a clear separation between water resources investigation and the actual construction of projects, as well as the need for explicit weighting of objectives when equity considerations must be traded off against economic or technical efficiency²³⁷. The point emphasised by Maass is that where agencies are simultaneously involved in planning and

234 Tribe L., Schelling C., Voss J.(Eds.), *When Values Conflict - Essays on Environmental Analysis, Discourse and Decision*, Ballinger Publishing Co., Cambridge, Mass, 1976.

235 One author who has written extensively on values and professionalism is Henning. See Henning D., 'Environmental Policy and Politics: Value and Power Content', *Natural Resources Journal*, Vol.11, July 1971, pp. 447-454.

236 Fox I. , and Craine L., 'Organisational Arrangements for Water Development', *Natural Resources Journal*, Vol. 2, No. 1, April 1962, pp. 1-44.

237 Maass A. 'Benefit-Cost Analysis : Its Relevance to Public Investment Decision-Making', *Quarterly Journal of Economics*, Vol. LXXX, May 1966, pp. 208-236.

construction, an inbuilt bias occurs towards a momentum of large-scale projects, simultaneously justifying the expansion of both particular functions. Maass is perhaps correct in calling for explicit weightings where counter-vailing objectives must be traded off, but the question arises as to whether this should occur at the technical or the legislative stage of project evaluation²³⁸. Many technical-economic analyses ignore equity considerations, leaving such issues to the parliamentary stage where there is some danger of them being overlooked. Explicit exposition must always be encouraged, but few cost-benefit details are ever made public and objectives such as equity or aesthetic quality will never be inbuilt unless directions exist to enforce their inclusion. Environmentalism is one mode of achieving such change.

Although few ex-post assessments of cost-benefit studies exist in Australia, what little information is available tends to support evidence from other jurisdictions, such as Haveman's studies in North America, that project costs are usually under-estimated and benefits overstated²³⁹. Attempts to explain away such errors as vagaries of particular circumstances simply do not convince; project analyses always contain substantial contingency allowances which are supposed to cover unknowns; moreover the pattern is too consistent to be mere accident. Another matter of concern is the neglect of regional impact of projects, apart from extravagant claims about the benefits of additional employment opportunities. As McColl and other authors have noted, the impacts are really positive and negative in character and if large enough to cause structural economic change in the region, then cost-benefit studies in isolation do not constitute a valid means of project selection²⁴⁰.

238 Gloyna E., and Butcher W., (Eds.), *Conflicts in Water Resources Planning*, Center for Research in Water Resources, University of Texas, 1972.

239 Haveman R., *The Economic Performance of Public Investment*, op. cit.

240 McColl G. & Throsby C., 'Proposed Effects of Public Investment Projects', paper presented at 44th ANZAAS Congress, Sydney, 1972.

Conservationists have not always identified this weakness in methodology, nor pressed for the introduction of standardised evaluation procedures, such as exist at the federal level in the United States²⁴¹. In general, the tactics of the eco-activists have been rather ad-hoc and unselective, although intuitively correct in discerning that major weaknesses in project evaluation methodology do exist.

4.13 SOME CONCLUSIONS

The central theme and evidence of this Chapter may be succinctly summarised thus:

- (a) Eco-activists attempt to challenge development proposals by pointing out errors and deficiencies in project evaluations. In doing so, they face the difficult task of challenging the assumed expertise of technocrats, as well as the legitimate role and authority of bureaucratic agencies and political processes.
- (b) Although internal and external problems exist in project evaluation, the investigation and authorisation process is heavily weighted in favour of adoption of agency viewpoints, especially when the implicit values conform to political aspirations for development, with social and ecological considerations or other values receiving scant consideration.
- (c) Project evaluation methodologies possess many hidden weaknesses, but the impact of such factors is often exacerbated by the narrowness of professional viewpoints, impinging upon option identification and enumeration. Subjective judgments are pervasive throughout the decision process, but material is presented to the public as 'factual'.

241 O'Brien W., *Multi-Objective Planning for Water Resources Management: A review of Recent Developments in The USA*, Australian Water Resources Council, Technical Paper No. 29, Australian Government Publishing Service, Canberra, 1977.

- (d) Even where technical deficiencies can be shown to exist, it is difficult for eco-activists to accurately convey such messages to politicians and a general public lacking knowledge or substantial interest in technical complexities.
- (e) Technocrats tend to perceive criticism as an affront to personal competence, rather than as comments on the merit or otherwise of a project, and react accordingly. The gap in attitudes and values between environmentalists and technocrats is so substantial that reasoned discourse is difficult to achieve.
- (f) Eco-activists tend to attack project evaluation methodology on a case-specific basis, aiming at deferral, modification or rejection of particular proposals. Although correctly diagnosing many deficiencies in project assessment, they do not get to the root causes of attitudinal and procedural weaknesses. If reform of resource management practices is desired, the real need is for in-service retraining of professions such as engineering, economics and planning, plus directives aimed at freedom of information and open consideration of social and ecological factors in project analysis. Conservationists appear to have failed to recognise the significance of these prospective reforms.
- (g) Given political indifference and the sheer conservatism and hostility of some professional groups, innovative change may prove difficult to achieve. Some improvements have occurred in Australian methodology during the past decade, but revised approaches have been slow to reach the workplace.

- (h) Democracy will prevail only if citizens are reflective enough to recognise the duality of rights and obligations and to insist that their institutions and laws should reflect this relationship. Environmentalists who challenge the need, purpose and justification for projects perform a useful function in the field of development proposals, since they draw attention to shortcomings of assessment and argue for increased recognition of social and ecological factors, as well as economic and technical considerations.

CHAPTER FIVE
FORESTS FOR WHOM AND FOR WHAT?
THE WOODCHIP AND RAINFOREST CAMPAIGNS

PART A : FUNDAMENTAL ISSUES OF FORESTRY POLICY

5.1 SOME DILEMMAS OF LOBBYING

In Chapter 4, attempts by eco-activists to prevent new projects being initiated and to challenge project evaluation methodologies were discussed. The key problem for the conservation groups was to achieve recognition within the political system and to persuade a somewhat confused and disinterested public that complex technical arguments had implications unfavourable to society. It proved exceptionally difficult to challenge the status and judgments of technocrats, even where their claims appeared suspect. In this Chapter, a second strategy is discussed: attempts by conservationists to lobby for amended forestry policy and practices; a situation where resource conservation and development are simultaneously involved.

It may appear relatively simple for an interest group within a democracy to put its views before Parliament and the people. Presumably the process involves cornering influential decision-makers and pressing an appropriate case by means of persuasive argument, relevant information and skilful use of the media, electorate and party room. Yet this lobbying model masks many complexities of the kind identified in Chapters 2 and 3. Access to influential policy-makers is not always easily achieved, people will believe what they wish to believe, inaction is common unless politicians feel public pressure or support for contentions, moreover issues and options are not always clearly perceived. In short, pressure groups and lobbyists face a number of difficulties in mounting and sustaining their campaigns

and the more vigorously they are pursued the more likely that countervailing pressures will be generated elsewhere within the social and political system¹. Forestry policy is a classic example of this phenomenon, since a number of studies have identified an alliance between the private timber industry and public forestry authorities, in opposing reforms espoused by conservation groups in a variety of jurisdictions².

An examination of attempts by Australian conservation organisations to lobby for amended forestry policy, especially in regard to export woodchip production, reveals that eco-activism has achieved only limited results. Whether this situation represents good or ill, we need to know why it has arisen. In the main, environmentalists have little prospect of success unless they are able to penetrate to the very core of the political system to persuade key power-brokers of the validity of their cause, or else by sustained effort and momentum, gain an apparent weight of public opinion that is persuasive of political and bureaucratic action for reform. In essence, the former requires the employment of professional lobbyists, able to invade the corridors of power to engage in skilled diplomacy, hard bargaining and the deployment of covert but apparent power³. The alternative tactic of mass persuasion demands a highly integrated but carefully selective campaign, using public relations and the media to the full, but engaging in the complementary tactic of coalition-building wherever public support or interest group alliances appear feasible⁴. Even a superficial examination of the actions of conservationists in the Australian woodchip debate and rainforest campaigns of the last decade, tends to indicate that the eco-activists have not always appreciated the

1 Lindblom C., *The Policy Making Process*, Prentice-Hall, Englewood Cliffs, N.J. 1968; Zeigler H., and Baer M., *Lobbying : Interaction and Influence in American State Legislatures*, Wadsworth Publishing Co., Belmont, Calif., 1969.

2 Robinson G., *The Forest Service*, John Hopkins Press, Baltimore 1975, pp. 257-259 and pp. 276-279.

3 Holtman A., *Interest Groups and Lobbying*, Macmillan, New York, 1966.

4 Gable R., 'Interest Groups as Policy Shapers' in Anderson J. (Ed.), *Politics and Economic Policy-Making*, Addison Wesley, Reading, Mass., 1970, pp. 4-17.

complexities of lobbying and influence, but rather they have mounted long but intermittent and unco-ordinated campaigns against existing practices, without clearly stating the alternatives they desire.

There are some ambiguities confronting interest groups engaging in natural resources policy-making. Details of the resource base and linkages to international commodity markets are not always clearly understood, moreover the continental federal character of Australian government raises awkward questions about the need or otherwise for uniform national policies or regional variation⁵. Environmentalists have to decide whether it is feasible or desirable to achieve reform in one or more States or localities in the hope of emulation by others, or whether the entire framework of issues, assumptions and priorities must be challenged⁶. Last, but certainly not least in environmentalism, they must determine the balance between adherence to principles and acquiescence to pragmatism. In debating the woodchip issue in Australia, therefore, we must consider some fundamental issues of forestry policy, as well as the capacity or otherwise of the conservation movement to penetrate the corporatist state to press its particular viewpoint.

5.2 PRESSING ISSUES OF FORESTRY POLICY

Among the many policy issues involving forests, only a few may fairly be described as 'pressing' in the general sense of complexity or degree of conflict generated⁷. Every policy issue is controversial, but in varying degree is largely dependent upon the distribution or extent of costs and benefits allocated within society. In part, conflict is also

5 Clawson M., *The Economics of National Forest Management*, John Hopkins Press, Baltimore, 1976; Jacobs M.R., 'The Development of Forest Policy in Australia' in Sinden J. (Ed.), *The Natural Resources of Australia*, Angus and Robertson, Sydney, 1972, pp. 244-260.

6 Ferguson I.S. 'Woodchips and Regional Development', *Australian Forestry* Vol. 36, No. 1, 1972, pp. 15-23.

7 Clawson M., *Forests for Whom and for What?*, John Hopkins Press, Baltimore 1975; Worrell A.C., *Principles of Forest Policy*, McGraw-Hill, New York, 1970.

related to perceptions of the issue, sometimes the problems and options seem clear-cut, but in other situations groups have no agreed definition of subject matter and no common values system about societal objectives⁸. Some issues overlap or are intertwined, nevertheless it is feasible to outline a number of forestry matters which appear to concern a significant number of Australians.

(a) How much land to devote to forests?

One policy issue is to determine the total proportion of land to be allocated to forestry production throughout the nation. It is erroneous to assume that all land with tree cover should be assigned to such purposes. Marginal land may well contain some timber, but of a quality or quantity unsuitable for harvesting, whereas superior land may have competing or complementary uses other than forestry production. If private landowners are free to exploit or reafforest their areas, the issue of public land allocations to forestry purposes becomes complex, especially as long lead-times occur to harvesting⁹. In a continental landmass, such quandaries are further exacerbated by spatial characteristics, climatic conditions, location of population centres, and differential regional governments. In addition, much land is 'lost' by conversion to urbanisation, water storages, agriculture and a variety of other purposes. Regeneration or restocking raises questions about public versus private provision, investment incentives and crop rotation times, efficient use of tonnages brought to market, plantation forestry, and use of imported versus indigenous species¹⁰.

8 Allison G., *Essence of Decision : Explaining the Cuban Missile Crisis*, Little Brown & Co., Boston, Mass, 1971; Dahl R.A., *Modern Political Analysis*, Prentice-Hall, Englewood Cliffs, N.J., 1976.

9 The time horizon adopted for forestry feasibility studies ranged from 18 years (pulpwood) to more than 60 years (sawlogs). See also Hyde W., *Timber Supply, Land Allocation and Economic Efficiency*, John Hopkins Press, Baltimore, 1980.

10 Krutilla J.V., & Haigh J., 'An Integrated Approach to National Forest Management', *Environmental Law*, Vol. 8, No. 2, 1978, pp. 373-415.

It is apparent that a fine balance is involved, using science, economics, management skills and politics to identify and implement appropriate national policies. The question is whether such issues are adequately recognised or treated within the political framework and who has access to put their case in such matters. There are strong grounds for believing that little public input to decision-making occurs at present¹¹.

(b) How much forest land to withdraw from harvest?

The previous discussion omitted considerations such as conservation or import and export policies. Any comprehensive strategy for forestry production will encompass such matters. Forestry land may be withdrawn from exploitation for a variety of reasons, such as declining demand, marginal quality, the economic advantage of others, environmental concerns, pest or disease control or fire damage. Such losses may be temporary or permanent and although many such revisions are inadvertent, being beyond the control of the authorities concerned, explicit policy decisions are required in other circumstances¹². The conservation issue is particularly relevant not only because permanent loss of production may be involved, but because public forestry services often regard themselves as being in the conservation business and resent criticism of inadequacies in this objective. Attempts by eco-activists to have large forest areas designated as wilderness zones, usually run counter to forestry values that treestands facing exploitation still have amenity quality, or at worst in clearfelling operations, the devastation is shortlived if regeneration is promoted¹³.

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- 11 Burch W., 'Social Aspects of Forest Policy Research' in Clawson M. (Ed), *Research in Forest Economics and Forestry Policy*, Resources for the Future Inc, Washington, D.C. 1977, pp. 327-382.
 - 12 Row C., 'Balancing Supplies and Demands' in Clawson M. (Ed), *ibid.*, pp. 83-158.
 - 13 Hendee J., Stankey G., & Lucas G., *Wilderness Management*, U.S. Department of Agriculture, Forest Service Miscellaneous Publication No. 1365, October 1978.

(c) Methods of harvesting timber

The variability of forest resources is a factor which must be explicitly recognised in both conservation and development programmes, but there are a host of other operational guidelines which must be considered. Principal amongst these is the issue of clearfelling. While foresters can provide persuasive arguments in terms of economic harvesting and subsequent regeneration procedures, environmentalists express alarm about the impact on wildlife, loss of amenity, and the tendency to replace varied and pleasing treeforms with species of drab monocultures¹⁴. Much of the debate is about the scale and disposition of cutting 'coupes', but the conflict is often confused and partial, involving confrontation rather than reasoned discourse.

Clearfelling is not the only matter under investigation however.

There are other aspects relating to the protection of skylines and streams, siting of access tracks, slope protection to avoid erosion, fire prevention, regeneration practices and recreational aspects¹⁵.

Conservationists have made repeated demands for some areas of State forests to be totally protected against intrusion and exploitation, so as to serve as reference points for scientific evaluation.

Permitting ecosystem succession to the stage where one species may replace another, and good quality timber deteriorates substantially, runs counter to forestry industry viewpoints, although the profession is now beginning to recognise the need to retain representative

14 Connaughton C.A., 'The Revolt Against Clearcutting', *Journal of Forestry*, Vol. 68, 1970, pp. 264-265; Harkin D.A., 'Clearcut or Selection :What Kind of Costs?', *Journal of Forestry*, Vol. 70, 1972, pp. 420-421.

15 Gilmour D.A., 'The Effects of Logging on Streamflow and Sedimentation in a North Queensland Rainforest Catchment', *Commonwealth Forestry Review*, Vol. 50, No. 1, 1971, pp. 38-48; Jackson W.D., 'Ecological Drift : An Argument Against the Continued Practice of Hazard Reduction Burning', in Gee H., and Fenton J., *The South West Book*, Australian Conservation Foundation, Melbourne, 1978, pp.98-102.

examples of various kinds of forest, although these reserves are generally very small indeed¹⁶.

Forestry practices are also intimately bound up with changing technology, pricing and markets¹⁷. It is not easy to establish good forestry practice, but once instituted there may be a tendency for modes of operation to become entrenched, even when needs and circumstances change. The professional institutes are a valuable means of debate and education, nevertheless the forestry industry can prove extremely conservative at times. It is noticeable for instance, that the form and type of timber supplied to industry is dictated by particular items of production equipment, e.g. chipping or grinding machines in papermills. Many of these devices will only accept wood billets of given dimensions, consequently much wastage occurs. Although it is technically feasible to improve the design, companies are reluctant to expend the capital required, yet such factors may have marked long-term implications for forestry operations, including the use or destruction of minor species which at present are often stockpiled or burned¹⁸.

(d) What role for private forests?

There are two countervailing views about forestry operations on private land. The laissez-faire perspective is to argue that property rights are private, long-established and inalienable, hence the individual owner should be allowed complete freedom to determine whether and in what manner the forests will be exploited.

Associated with this viewpoint is the assumption that clearing

16 For discussion see Mosley J.G. (Ed.), *Australia's Wilderness*, Australian Conservation Foundation, Melbourne, 1978.

17 Clawson M., *Decision-Making in Timber Production, Harvest and Marketing*, Resources for the Future Inc., Washington, D.C. 1977.

18 Conservationists have repeatedly criticised the burning of minor species (some of furniture quality timber) during eucalypt clearfelling. The industry claims it is uneconomic to recover such residuals.

forestry land for agricultural or other usage is inevitably beneficial and ought to be granted taxation concessions¹⁹.

Many government policies tend to reinforce such operations.

The contrasting viewpoint adopted by some public agencies and by the conservation movement is that land clearing operations are often undertaken without proper consideration of economic or ecological factors, which in many cases have been misjudged in the past with disastrous consequences²⁰. The government's role is thus viewed as being both regulatory and innovative; that is, to promote good forestry practices by education, grants and advisory services, but also to limit or prevent certain undesirable actions. It may justly be claimed that the role of private forests and forestry operations is of growing importance, but has not been adequately considered in Australia as yet.

(e) What policy for timber imports and exports?

The earth's forest resources are now under heavy exploitative pressure, with resultant complications in world markets for forestry products²¹. Although forecasts of prospective demand are buoyant and optimistic, doubts exist about long term viability of supply and relative comparative advantage. Some countries are export-orientated and highly protective about timber imports, while others rely upon market forces to determine the viability and comprehensiveness of the indigenous industry. Anomalies occur through quota, tariff and incentive schemes which are often instituted in the first instance to

19 Evidence from Tasmania suggests that marginal land clearfelled is of little benefit to agriculture.

20 Floyd E., 'Erosion and Woodchips at Eden', *Ecology Action Newsletter*, Vol. 5, No. 4, 1976, pp. 3-7; Megehan W.F., 'Logging, Erosion, Sedimentation: Are They Dirty Words?', *Journal of Forestry*, No. 70, 1972, pp. 403-407.

21 Carter W.G., 'World Supply of Forest Products in the Year 2000', *Timber Supply Review*, Vol. 20, No. 2, July-December 1970, pp. 32-33; Zivnuska J., 'Research in International Forest Economics' in Clawson M., (Ed.), *ibid.*, pp. 433-482; FAO Working Group, *World Pulp and Paper Demand, Supply and Trade*, United Nations, New York, 1977.

regulate supply and demand, but which often lack loopholes or rigidities. Inter-regional transfers of timber commodities create similar problems, but are more amenable to government control. Some nations have instituted export licensing in an attempt to avoid competition among suppliers, leading to vulnerability to cartel operations by transnational enterprise, but all available evidence leads to the conclusion that third world countries and backward regions are often preyed upon in long-term contracts²².

Forestry policy has truly international dimensions today but the debate in Australia, both within government and the conservation movement, has often been intensely parochial and shortsighted. The fact is that the Australian community has simply not been educated to understand forestry issues, and presentation within the media is usually limited to dramatised confrontation between the foresters and eco-activists on a personality basis²³. The real debate has occurred away from the public arena, but in circumstances where technocrats and exploitative interests have enjoyed considerable advantage over conservationists²⁴. Conservationists appear to have been singularly unsuccessful in persuading timber workers to join their cause; the merest threat of unemployment has sufficed to induce cartage contractors and millworkers to ally with large forestry companies, usually owned by multinational corporations²⁵. In short, the conservationists appear to have lacked coalition partners in their struggle to amend forestry practices in Australia. In the remainder of this Chapter, some aspects of the forestry campaign will be evaluated.

22 Lamb D., 'Conservation and Management of Tropical Rainforest : A Dilemma of Development in Papua New Guinea', *Environmental Conservation*, Vol. 4, No. 2, Summer 1977, pp. 121-129.

23 Plumb J.W., 'Public Attitudes and Knowledge of Forestry', *Journal of Forestry*, Vol. 71, 1973, pp. 217-219.

24 Watt A.J., 'The Policy Process in the Resolution of Land-Use Conflicts on the Boyd Plateau', *Australian Journal of Public Administration*, Vol. XXXV, No. 3, September 1976, pp. 212-228.

25 Conservation Council of Victoria, *What State is the Garden In?*, a Resource Book on Forestry Conservation Issues in Victoria, Melbourne 1980, section 2.4 (The State of Victoria is known as the 'Garden State')

5.3 A FRAMEWORK OF ANALYSIS FOR FORESTRY PRACTICE

Clawson's detailed analysis of pressing issues of forestry policy leads to derivation of an initial scheme of analysis for contextual situations. This framework is tentative and exploratory, but at least identifies certain aspects which should be investigated. The overall philosophy may be succinctly summarised in four components:

- (i) a policy of non-depletion of the resource base, coupled with retention of ecosystem viability;
- (ii) a policy of appropriate usage in the sense of social acceptability and effective management;
- (iii) a policy of social accountability requiring explicit recognition of both economic and welfare considerations; and
- (iv) identification of the rights of minorities as well as majorities within the community when examining forestry issues²⁶.

Such tradeoffs are bound to prove difficult in practice, but they provide the initial projected course towards which decisions should ultimately steer. Clawson examines each of these objectives of forestry policy in some detail, around a central theme of 'forests for whom and for what?'. After considering forest characteristics, competing and complementary usage of the forests and economic-technical factors of the kind outlined in Section 5.2 of the Chapter, Clawson identifies six factors as the key elements of forestry policy:

Aspects for investigation

- (i) the physical and ecological feasibility of forestry operations and the prospective consequences of such action;

²⁶ Clawson M., *Forests for Whom and for What?*, *op. cit.*, pp. 24-25; Nicholson E.M., 'Forestry and Conservation', *Environmental Conservation*, Vol. 1, No. 2, Summer 1974, pp. 83-86.

- (ii) economic efficiency and social effectiveness criteria;
- (iii) economic welfare (equity criteria within the forestry industry and broader community);
- (iv) social or cultural acceptability of forestry practices;
- (v) operational or administrative practicability; and
- (vi) integration of the above criteria²⁷.

Clawson's treatment of variability amongst forests is based upon American experience and largely ignores two important factors extant in Australia: issues of plantation forestry and the relationship between Australia's principal eucalypt hardwoods and other so-called 'minor' rainforest species²⁸. Tree counts per square kilometre are also an important factor in a continental landmass, where timber may be uneconomic to harvest if it is scattered over prospectively long haulage distances. Insofar as plantation production is concerned, it has not yet proven economic to engage in intensive eucalypt plantation operations because of the high investment and labour costs over the extensive time-horizon to yield. Circumstances may change, but that is the realistic assessment at present²⁹. Softwoods, such as imported pine species, are an economic plantation prospect in some circumstances due to their shorter crop rotation times; therefore States devoid of major natural forests, such as South Australia, have turned to this form of production³⁰. Rainforest resources in Australia have suffered severe attrition in recent years, due to clearing for agricultural

27 *Ibid*, pp. 17-25; see also Krutilla J.V., & Fisher A., *The Economics of Natural Environments: Studies in the Valuation of Amenity Resources*, John Hopkins Press, Baltimore 1975.

28 For Australian comment see Douglas I., 'Pressures on Australian Rainforest', *Environmental Conservation*, Vol.2, No.2, Summer 1975, pp. 109-120; Somerville J., 'Rainforest and the Commission', *The National Parks Journal*, Vol. 24, No. 3, June 1980, pp. 11-12; Webb L., 'Conservation and Land-Use in Rainforest Areas of Eastern Australia', *National Parks: Report of the Proceedings of the National Park School held at University of New England, Feb. 1964*, Univ. of New England, Armidale 1964.

29 Cremer K.W., 'Growth of Eucalypts in Experimental Plantations near Canberra', *Australian Forestry*, Vol.32, 1968, pp.135-144; Hillis W. & Brown A. (Eds.), *Eucalypts for Wood Production*, CSIRO, Canberra, 1976.

30 Bureau of Agricultural Economics, *The Australian Softwood Products Industry*, Australian Government Publishing Service, Canberra 1977.

purposes, 'one-cash' crop exploitation, and assumptions that they represent 'unproductive' ecosystem maturity species which should be replaced by commercial eucalypt species³¹. This tragic perspective will be examined later in the Chapter.

Clawson believes that 'beneficiaries' from forestry activities may be classified or grouped in a variety of ways. Location, time horizon (present or future generations) whether consumers or producers (primary or secondary) are some obvious categories. Similarly, 'losers' may be classified according to distance from forest recreational opportunities, timescale of amenity loss, charges upon the public purse for subsidisation of the industry and other indicators³². Such categorisations reinforce the point that forestry policy involves complex interaction of numerous variables. Clawson tends to believe that conservatism prevails within forest services and that constructive innovations are difficult to achieve in the face of established dogma³³. She is equally concerned by the tendency of forestry practitioners to shelter behind concepts such as claimed 'multiple-use' of resources, as well as the close and comfortable accommodation which exists between government agencies and their private sector clients. Clawson believes that this affinity of values may lead forestry agencies to serve sectional interests, rather than the general community³⁴.

5.4 THE MULTIPLE-USE CONCEPT AND SUSTAINED YIELD

Whenever disputes arise about the ecological or social impact of the forest industry, there is a tendency for professional foresters and timber corporations to fall back upon the defence of claiming long term benefits

31 National Parks Association of NSW, *NSW Rainforests*, Sydney, 1980; Raymond R., & Serventy V., *Rainforests*, Summit Publications, Sydney, 1980.

32 Clawson M., & Knetsch J.L., *Economics of Outdoor Recreation*, John Hopkins Press, Baltimore 1966.

33 Clawson M., *Forests for Whom and for What?*, *op. cit.*, pp.112-117 and 130-137.

34 *Ibid*, pp. 105-107. See also Leslie A., 'The Environmental Challenge to Forestry', *New Zealand Journal of Forestry*, Vol. 21, 1976, pp. 5-16.

to society, through 'multiple-use' and 'sustained yield' from forestry enterprise. Both phrases demand explication. The interpretation provided by forestry officers is that 'multiple-use' means forest can simultaneously be utilised for a variety of purposes, thus substantially benefitting a wide spectrum of the community. The notion of 'sustained yield' implies that forests can be managed in perpetuity, benefitting future as well as present generations. The implication is that wise management makes all things possible for all men over an indefinite but extensive time horizon³⁵.

Critics argue that these noble aspirations are rarely followed in practice and even if they were, amenity costs to society would be bound to accrue³⁶. What are the kinds of arguments advanced by environmentalists to refute the multiple-use concept? The first and substantial argument is that forestry exploitation inevitably restricts access for the public, since felling and haulage operations are essentially hazardous and may well impinge upon access routes remote from the scene of operations. Even if felling and hauling occurs only in isolated localities and is deliberately routed clear of public amenities, other problems arise³⁷. The multiple-use concept presumably does aim to provide diversity of opportunity for public usage and enjoyment, but some of these public uses are in themselves incompatible, e.g. trailbike riding in or adjacent to wilderness areas³⁸. Above all, there is ample evidence to suggest that where forestry exploitation for sawlog or pulpwood purposes occurs, it is given dominant priority, with only token attention to other prospective usages. In other words, the rhetoric of multiple-use concepts is simply not adhered to in practice³⁹.

35 Bauer G., 'Multiple-Use of the Forest Resource', *Search*, Vol. 5, No.8, August 1974, pp. 374-380.

36 Australian Conservation Foundation 'Multiple-Use on Forest Land Presently Used for Commercial Wood Production', *Search*, Vol.5, No.9, Sept.1974, pp.438-443.

37 Montgomery K. & Walker C.M., 'The Clearcutting Controversy', *Journal of Forestry*, Vol. 71, 1973, pp. 10-13.

38 Brockman C.F., & Merriam L., *Recreational Use of Wild Lands*, McGraw-Hill, New York, 1973, Ch. 5 & 9; Irland L., *Wilderness Economics & Policy*, Lexington Books (D.C. Heath), Lexington, Mass, 1979, Ch. 5.

39 Eco-activists argue that forestry recreation is merely a sop to the public to reduce adverse comment about clearfelling practices.

While the multiple-use concept would seem to imply equity benefits, there is a fundamental economic objection to its blanket acceptance. Situations may well arise where single-purpose use of resources will yield greater economic and social benefits (including redistribution) than would be returned through multiple-use programmes. Admittedly, the identification of such circumstances is not simple, but neither is there any guarantee that multiple-use, if fully implemented, will automatically yield an optimum array of benefits to the various sectional interests within society⁴⁰. The phraseology is somewhat misleading, and although persuasive within the public arena, needs to be evaluated in particular contextual circumstances before the end results are clear as to who is gaining and who is not.

Scientists have also questioned the concept of sustained yield. The tendency of forestry interests to try to ensure predictability of yield through 'tree-farming' operations, may well result in reduction of forest diversity and threaten gene pools and minor species. The monotony of mono-species, the elimination of 'forest giants' and the impact on biota are obvious implications; scientists tend to argue at least for the retention of some areas where ecological diversity and ecosystem succession are permitted to continue⁴¹. In practice, sustained yield may prove impossible anyway; scientific forestry is a comparatively new discipline and little experience has yet been recorded about treecrop rotations to prove that third and fourth generation trees will match their antecedents. Current evidence suggests that clearfelling processes and regeneration practices lead to loss of nutrients, impact on drainage patterns and the like, hence sustained yield is unlikely to be achieved. In Australia, where marginal land or steep mountain country is often involved, the prospects are even worse⁴².

40 Hall G.B., 'The Myth and Reality of Multiple-Use Forestry', in Thompson D., (Ed.), *Politics, Policy and Natural Resources*, *op. cit.*, pp. 363-375.

41 Brockman C.F. & Merriam L., *Recreational Use of Wild Lands*, *op. cit.*, Chapter 9.

42 Swanston D., & Dyrness C.T., 'Stability of Steep Land', *Journal of Forestry*, Vol. 71, 1973, pp. 264-269; Woolridge D.D., 'Watershed Disturbance from Tractor and Skyline Crane Logging', *Journal of Forestry*, Vol. 58, 1960, pp. 369-372.

In short, it is difficult to assess the implications of notions such as 'multiple-use' and 'sustained yield' when no agreed criteria exists and no genuine measurement occurs. Conservationists claim that the terms are intended to mislead politicians and the public, but it should be noted that eco-activists are also guilty of using phraseology such as 'the conserver society' or 'appropriate technology' without precise definition of meaning.

5.5 FORESTRY IDEOLOGY

Environmentalists are concerned not only about the phraseology and practices adopted by forestry authorities and the industry, but are also opposed to many of the values of foresters, even though the latter claim to be conservationists. In a critical examination of the ideology of the Australian forestry profession, Dargavel claims that utilitarian notions of 'production' are dominant, with conservation values secondary and interpreted largely in terms of usefulness to the forest industries⁴³. Dargavel believes that mutual reinforcement of particular values occurs because all Australian foresters are trained in a few specialised institutions and maintain fairly close social networks outside working hours. He also criticises the profession for failing to recognise the important social implications of some of its operations, arguing that preoccupation with techniques and consequences has blinded it to the essential matters of values and objectives⁴⁴. In his view, technical competence does not equate with social and moral significance and he advocates increased attention to these aspects. His call is echoed by some members of the Institute of Foresters who seek to improve the image and social awareness of the profession⁴⁵.

43 Dargavel J., 'The Political Detection of an Australian Forestry Perspective', Department of Forestry, Australian National University, March 1980.

44 *Ibid*, pp. 14-18 especially. Dargavel attempts to proceed beyond criticism of the profession, to make positive suggestions about its reform.

45 There appears to be some tensions within the Institute of Foresters between older 'traditional' members and a younger generation conscious of public criticism of the profession and anxious to reform it in favour of environmental principles. See also Crafts E.C., 'Foresters on Trial', *Journal of Forestry*, Vol. 71, 1973, pp. 14-17.

Dargavel's assessment is essentially Australian, but it finds echoes in North America where a number of studies have tended to support contentions of narrow value orientations and a close affinity between 'public' and 'private' forestry to the advantage of the latter. Kaufman's definitive study of The Forest Ranger encapsulates the centrifugal pressures of forestry administration: the triumph of central policy over regional autonomy; the expectation of conformity to a particular ethic; the attitude that trees are principally a crop to be harvested. Fortunately, people are not quite so malleable in practice⁴⁶. Nonetheless, certainty about roles is a barrier to innovative thought and tends to create over-reaction to external questioning. Foresters regard criticism as an affront to personal competence; the suggestion of alternative perceptions within the community is not readily accepted. These themes are further pursued in Robinson's The Forest Service and Healy's Land-Use and the States. Both texts draw attention to the influence exerted by the private forestry industry on government policy, the long struggle to have wilderness preservation recognised as a legitimate forestry practice, and the kinship, indeed conformity, expected within forestry organisations⁴⁷. Professionalism creates pride and motivation, but also an inner-directed orientation towards particular ends.

5.6 RECAPITULATION

In the initial pages of this Chapter, a number of general issues of forestry policy are recorded. It is apparent that complex scientific and economic issues are involved, not easily resolved through the application of concepts such as 'multiple-use' and 'sustained yield'. If forestry terminology is ambiguous and disagreement exists about management practices

46 Kaufman H., *The Forest Ranger : A Study in Administrative Behaviour*, John Hopkins Press, Baltimore, 1967.

47 Robinson G., *The Forest Service*, *op. cit.*, Chapter 1; Healy R., *Land Use and the States*, *op. cit.*, Chapters 6 and 7.

it is difficult to decide whether this facilitates or impedes eco-activists anxious to obtain reform of forestry policy and management. In any case, the environmentalists have to resolve dilemmas about lobbying: they can either attempt to persuade key power-brokers directly, or else bring pressure to bear by enlisting public support, but in so doing may have to face determined resistance from an alliance of the forestry industry and public forestry authorities. A key question is whether the conservationists have the capacity to mount a sustained and integrated campaign to overcome this obstacle and if so, what tactics might be chosen, relative to their opponents.

We now turn to a case-study illustration of these problems with respect to woodchip production in Australia, and efforts to retain vestigial remnants of rainforest in some States.

PART B : THE AUSTRALIAN SITUATION

5.7 AUSTRALIA'S FOREST RESOURCES

Details of Australia's forest policy and forestry resources are recorded in a number of publications⁴⁸, but it is necessary to provide a brief outline as background to the woodchip controversy and rainforest campaigns. The essential point to note is that Australia is not well endowed with timber resources relative to area, although some regions possess sparse tree coverage and limited areas have dense rainforest or major eucalypt hardwood species⁴⁹. As previously noted, it is difficult to estimate future yields from forest areas, or to accurately predict regeneration prospects, production timescales, changing usage patterns, wood technology or market demands. A clear distinction must also be drawn between species, grades and maturity periods for the three principal wood uses: sawlogs,

48 Rule A., *Forests of Australia*, Angus & Robertson, Sydney, 1967; Report of the Senate Standing Committee on Science & Environment, *Woodchips and the Environment*, Australian Government Publishing Service, Canberra, 1977; Department of Industry & Commerce, *The Australian Wood Pulp Industry: Supply Potential*, Australian Government Publishing Service, Canberra, 1979.

49 Department of Primary Industry, Forestry Branch, *Australian Forest Resources 1979*, Australian Government Publishing Service, Canberra, 1980.

pulpwood and woodchip production, as well as the relative importance of native hardwoods and softwoods, compared with plantations of exotic monocultures and timber imports of various kinds⁵⁰.

Official statistics suggest that, as at 30 June 1979, total woodland in Australia was estimated at 107 million hectares, of which only 42 million hectares was classified as exploitable native forests, excluding plantations, and 65 million hectares of limited woodland cover of between 10 and 30 percent of land area. Overall, approximately 13.8 percent of the continent has some tree cover, but only 5.5 is commercial exploitable forest. Nearly 79 percent of the forest is publicly owned (including five percent in national parks), while 21 percent is privately owned, with little State control over utilisation. Plantation forestry, principally conifer softwoods, is estimated as 0.62 million hectares⁵¹.

Other relevant statistics are:

- (i) roundwood extraction, including fuelwood, totalled 14.1 million cubic metres in 1978-79, encompassing sawn timber, plywood, particle board and woodpulp;
- (ii) hardwood woodchip exports totalled 3.35 million green tonnes;
- (iii) considerable government assistance was provided through tariff protection and subsidies, but imports of sawn timber, plywood and paper pulp continued to increase;
- (iv) the wholesale value of all forest products in 1978-79 was estimated at \$1695 million, with imports totalling an additional \$670 million and export earnings \$141 million. The value of all forest products consumed was thus \$2324 million⁵².

50 Australian Conservation Foundation, 'What the Nation Needs and All That Stuff', in The Boyd Plateau Issue, *Habitat*, Vol. 3, No. 1, March-April 1975, pp. 22-24; Bower C., 'The Softwood Export Racket', *National Parks Journal*, Vol. 25, No. 1, February 1981, pp. 16-18.

51 French J.R., 'Australian Forest Policy : A Critical View', *Current Affairs Bulletin*, Vol. 57, No. 5, October 1980, pp. 4-16.

52 Department of Primary Industry, Forestry Branch, *Australian Forest Resources 1979*, op. cit., pp. 7-38.

In addition to this factual information, eco-activists need to comprehend other essential aspects if they are to postulate pragmatic reforms of forestry policy or practice. For example, wood harvested on private land now represents a significant proportion of the annual cut of mature forest production⁵³. In Tasmania, where considerable tracts of woodland are gradually being cleared for alleged agricultural purposes, clearfelling for woodchip production is often viewed by farmers as a single cash crop, without the land actually being suitable for any alternative purpose other than rough grazing - an activity likely to degrade through soil erosion and loss of nutrients. So alarmed has the State Government become about such practices, that a Private Forestry Division has recently been established within the State Forestry Commission to encourage regeneration and replanting⁵⁴. In some of the other States, even this belated provision is lacking.

The demand for softwoods from conifer plantations has led to the removal of some areas of native forest in favour of exotic monocultures. In some instances this has occurred on good quality land, while already cleared marginal land suitable for such plantations has been ignored⁵⁵. Other areas pose special problems; for example, the jarrah forests of Western Australia. Here the clearance of forest has markedly increased soil salinity, inhibited the prospects of regeneration where bauxite strip mining has occurred, and raised serious doubts about underground water pollution in an area highly dependent upon aquifers for domestic water supply⁵⁶.

53 Department of Industry & Commerce, *The Australian Wood Pulp Industry: Supply Potential*, op. cit., pp. 20-22.

54 Parliament of Tasmania, *Report of the Board of Inquiry into Private Forestry Development in Tasmania*, Hobart, 1977.

55 Dargavel J., 'Opportunities for Whom?', paper presented at Seminar on Investment in Plantations, Institute of Foresters of Australia, Tasmanian Division, Hobart, 26 July 1980.

56 Conacher A.J., 'Water Quality and Forests in Southwestern Australia: Review and Evaluation', *Australian Geographer*, Vol. 14, 1979, pp. 150-159.

Much of Australia's rainforest has been removed by cleafelling or for agricultural purposes, as well as to exploit rich cabinet timbers such as cedar, silky oak, myrtle, blackwood and other so-called 'minor' species⁵⁷. Virtually all of the tropical lowland forest has disappeared, although some isolated stands remain. Larger stands of upland rainforest exist, but are under considerable threat unless protected in national parks. There are doubts about the selective logging of such areas, some foresters arguing that provided sufficient canopy cover is retained, regeneration will occur, while others argue that at current rates of attrition and given the long maturity periods of rainforest species, depletion in the long run is inevitable⁵⁸. The disappearance and degeneration of tropical rainforest has attracted international scientific concern, partly because of the inadequacy of many of the systems of land use replacing the forests and partly because of the irretrievable loss of world genetic resources⁵⁹. The Australian coastal region is now the only remaining place in the world where the succession of rainforest from tropical monsoon zone to cool temperate regions can be observed, but less than two million hectares remain and the area is decreasing rapidly under the onslaught of logging, mining, clearing for agriculture, tourism, and the replacement of rainforest by other timber species⁶⁰.

These brief comments illustrate the variety and complexity of Australian forestry problems, but they still omit what is perhaps the single most damaging development: the establishment of woodchip industries in the eastern States and in Western Australia. An outline of the woodchip industry

57 Australian Conservation Foundation, *The Rainforests : A Viewpoint*, Melbourne, May 1977.

58 *Ibid*, pp. 9-11.

59 Richards P., *The Tropical Rainforest*, Cambridge University Press, Cambridge, 1952.

60 Douglas I., 'Pressure on Australian Rainforests, *Environmental Conservation*, Vol. 2, 1975, pp. 109-119; Webb L.J., 'The Identification and Conservation of Habitat-Types in the Wet Tropical Lowlands of North Queensland', *Proceedings of the Royal Society of Queensland*, Vol. 78, No. 6, 1966, pp. 59-86.

is presented below, together with a summary of the reaction of conservationists. Later case-studies will analyse key elements of the woodchip debate and rainforest controversy.

5.8 THE AUSTRALIAN WOODCHIP INDUSTRY

Since 1970, Australia has developed a major industry supplying woodchips for Japanese pulp and paper manufacturing industries. According to a recent Commonwealth Government report, the objective was to diversify Australian forestry production and use hitherto wasted resources⁶¹. However, this view is not shared by conservationists who claim that the industry is leading to the depletion of forest resources, environmental damage, and represents an intrusion by multinational corporations at the expense of local sawmillers⁶². The claims and counterclaims are complex, hence it is desirable to view the situation in an historical context, as well as through statistical measures, before grappling with some key policy issues.

The woodchip industry entails the procurement of timber and its mechanical reduction to chips measuring approximately three centimetres in diameter. In theory it is much less selective than the sawlog industry, both in quality of material and scale of timber utilised, but there have been complaints that logs of structural quality have been chipped or pulped⁶³. In consequence, harvesting generally involves clearfelling over fairly large areas known as 'coupes'. Under the influence of volume production and lower quality standards, forests hitherto neglected are now threatened with total clearance; moreover any attempted reforestation tends to produce a monoculture forest of native or exotic species of the same height and age, without the diversity or complexity of 'natural' forest, which may gradually supplant

61 Department of Industry & Commerce, *The Australian Wood Pulp Industry : Supply Potential*, op. cit., pp. 1-3.

62 Rawlinson P., *Woodchipping in Victoria*, Native Forests Action Council, Melbourne 1977; Jones R., (Ed.), *The Vanishing Forests*, Environmental Law Reform Group, University of Tasmania, Hobart 1975.

63 Australian Conservation Foundation, *The Great Forest Sellout*, Melbourne, 1975.

the indigenous Australian bush⁶⁴.

The first export woodchip project commenced commercial production in New South Wales in 1971. Since then three other companies have been granted concession areas in Tasmania and Western Australia. Other proposals are in the process of negotiation or have received approval, but have not yet reached firm production⁶⁵. A fifth company, operating in Tasmania, is exporting woodchips but does not hold a concession area as it is operating within private forests. As a condition of the grant of concession areas by State governments, the woodchip companies are required to examine the feasibility of establishing pulpmills based on the same resources. The only current commitment in this direction is the establishment of a major new plant at Albury-Wodonga by Australian Newsprint Mills⁶⁶. Various other woodchip prospects involving sawmill residues, Gippsland forests and Mt Gambier softwood plantations have been mooted, and research is in progress to determine whether Tasmanian rainforest species can be chipped, despite associated difficulties such as the dark colour of the wood⁶⁷.

Australia is now exporting to Japan more than three million green tonnes of woodchips each year, valued at approximately \$82 million, i.e. about \$26 per tonne. Converted to pulp, this volume of chips would yield between 0.7 million and 1.0 million tonnes of pulp, depending upon the process used, which would be valued at up to \$300 per tonne, representing considerable value-added by secondary processing⁶⁸. Although all Australian State governments are anxious to secure pulpmills rather than export woodchips,

64 *Ibid*, pp. 6-7.

65 Report of the Senate Standing Committee on Science & Environment, *Woodchips and the Environment*, *op. cit.*, pp. 111-112.

66 See newsletters of Australian Conservation Foundation for 1980-81 discussing implications of the mill.

67 Information on such prospects surface in a variety of publications, including newspapers, newsletters of forestry authorities and the industry, as well as conservation journals. See also Department of Industry and Commerce, *The Australian Wood Pulp Industry : Supply Potential*, *op. cit.* pp. 56-57.

68 Australia/Japan Study Group, *Australian and Japanese Woodpulp Industries: Future Development and Relationship*, Australian Government Publishing Service, Canberra 1980.

there are financial obstacles. While a typical woodchip venture may currently be established for approximately \$20 million, a pulpmill to process the same amount of timber could currently cost up to \$200 million and inflation is markedly affecting that prospect⁶⁹.

Central to this matter is the question of resource supply. As already indicated, there is a distinction between timber availability, economically viable production, timber technology, market situations and the mix of native and exotic species, softwoods and hardwoods. At first sight, rates of utilisation appear likely to outstrip available supply, but foresters contend that the nation has a great deal of land suitable for timber production and species are available which could produce commercially useful pulpwood yields within twenty years, although sawlogs would require a maturation period closer to sixty years⁷⁰. Economic prospects are tinged with uncertainty however, hence careful investigation is warranted before policy choices are made. The eco-activists claim that this is precisely what did not occur before woodchip export licences were granted, therefore they seek a broadranging review of policy and practices.

5.9 OBJECTIONS BY ENVIRONMENTALISTS

The principal objections by conservationists to the woodchip industry may be summarised as follows:

- (i) it is argued that areas clearfelled for woodchips remain unattractive in appearance for a considerable period of time, a characteristic shared by the monoculture regeneration which follows, i.e. there is an obvious loss of visual amenity and forest diversity;

69 Department of Industry and Commerce, *The Australian Wood Pulp Industry : Supply Potential*, op. cit. p. 1.

70 Commonwealth of Australia, *Economic and Environmental Aspects of the Export Hardwood Woodchip Industry*, Attachments to the Report of the Working Group, Vols. 1 and 2, April 1975, Government Printer of Australia, Canberra, 1976.

- (ii) loss of nutrients, erosion and stream silting occurs; moreover successive tree crops will be of progressively poorer quality;
- (iii) flora and fauna species are placed at risk, either by displacement or depletion; and
- (iv) ecosystems and gene pools are disturbed or destroyed⁷¹.

Allied to these concerns are grave doubts as to the social costs and benefits of the woodchip industry. The Australian Conservation Foundation has argued that no new projects should be approved or export licences granted unless the following economic and environmental criteria are satisfied:

- (i) it is publicly demonstrated through project evaluation that the export woodchip industry promotes short-term and long-term net economic benefits to the community;
- (ii) the above to occur after due allowance for any social or public infrastructure expenditures are taken into account;
- (iii) the industry is not to remain reliant upon hidden government subsidies or tax relief;
- (iv) the operations are conducted in such a manner as to involve little or no ecological damage and little or no diminution of the non-production (other) values of native forests; and
- (v) the onus of proof (and associated costs) to rest upon the development company.

Timber interests claim that these requirements are too stringent and unrealistic, moreover that existing benefits of the industry, especially employment opportunities, outweigh minor environmental damage⁷².

71 Australian Conservation Foundation, *The Great Forest Sellout*, *op. cit.*, pp. 6-8.

72 *Ibid*, p. 10; Gilpin A., *Environmental Policy in Australia*, University of Queensland Press, Brisbane, 1980; Phibbs P., 'Terania : Regional Economics', *The National Parks Journal*, Vol. 24, No. 2, April 1980, pp. 32-34.

Countervailing the pressures which environmentalists bring to bear on the forestry industry generally, are groups of individuals such as cartage contractors and forestry workers, whose livelihood is dependent upon woodchip operations. Employment in the woodchip industry in 1975 was 690 persons, not counting approximately 1700 persons employed in the forest and transport industries allied to woodchip production⁷³. As production has increased by at least 30 percent since 1975, it is probable that employment is now much higher, but some employees may simultaneously be engaged in sawlog extraction or other activities. Details of the economics of wood-chipping, including public infrastructure support and overall employment multipliers, are not very clear. It is therefore difficult to decide what contribution and what social costs (if any) can be attributed to the industry. While this renders it easy to attack various aspects of woodchip operations and environmental impact, it also provides ample room for manoeuvre for those who wish to depict the industry as benign or beneficial. This ambiguity of policy context is the reason why the general public appears confused about the issue, notwithstanding the obvious visual effect of clearfelling operations. Smaller scale selective logging and frequent wildfires caused by careless human action have environmental implications, but have received far less public criticism⁷⁴.

5.10 COMMENT ON PART B OF THE CHAPTER

Two conclusions from Part B of the Chapter have emerged: Australia is not generously endowed with forest resources, and the rate of exploitation may be placing considerable strain upon ecosystems and forest diversity. State forestry authorities appear confident that they can meet prospective demand, but eco-activists challenge this assumption. Notions of 'multiple-use' and 'sustained yield' appear to be well entrenched values in the minds of

73 Department of Industry and Commerce, *The Australian Wood Pulp Industry: Supply Potential*, *op. cit.*, pp. 33-34.

74 French J.R., 'Australian Forest Policy : A Critical View', *Current Affairs Bulletin*, *op. cit.*, pp. 5-6.

forestry practitioners, but it is debatable whether such aspirations are actively pursued in practice. Conservationists believe that current forestry practices are single-use orientated, i.e. exploitation occurs with little regard for environmental factors such as wilderness quality, scenic amenity, conservation of flora and fauna, or ecological succession. They also express considerable doubt about the net social benefits of woodchip production to the community in general. Whether this diagnosis is correct or not, we need to examine some case evidence of forestry issues to determine whether eco-activists have been able to influence resource management practices to any degree.

PART C : EXAMPLES OF AUSTRALIAN FORESTRY CONFLICT

5.11 CATALYST FOR ACTION : THE FORWOOD CONFERENCE AND THE FIGHT FOR THE FORESTS, 1974

The full history of the woodchip debate in Australia is not yet recorded in any single text, but elements of the story may be gleaned from a variety of sources⁷⁵. It is apparent that at the outset of the export woodchip industry, isolated voices were raised against the potential social and ecological impact of the industry, principally through the Australian Conservation Foundation and environmental groups in New South Wales and Tasmania, but also in academic journals⁷⁶. The fears expressed made little impact at the time and it was not until production export licences were granted and the visual impact of clear-felling practices became apparent, that public reaction increased. In 1974 two decisive events occurred which were to shape the conflict for the remainder of the decade : publication of the reports of a major conference of the forestry industry (the FORWOOD Reports) and a stinging rebuttal of the reports by two university researchers in a book entitled The Fight for the Forests⁷⁷.

75 Routley R. & Routley V. *The Fight for the Forests*, Research School of Social Science, Australian National University, Canberra 1974; Jones R. (Ed), *The Vanishing Forests*, op.cit.; Gilpin A. *Environment Policy in Australia*, op.cit. pp. 174-185.

76 Davis B.W. 'Rape or Rationality? : An Evaluation of Tasmanian Resource Management', paper presented at 46th ANZAAS Congress, Canberra, January 1975; Conacher A. 'Conservation & Geography :The Case of the Manjimup Woodchip Industry, Southwestern Australia', *Australian Geographical Studies*, Vol. 15, 1977, pp. 104-122.

77 Routley R. & Routley V. *The Fight for the Forests*, op. cit; Australian Forestry and Wood-Based Industries Development Conference, *The FORWOOD Reports* (8 volumes), Australian Government Publishing Service, Canberra, 1974, and 1975.

One of the principal queries in resource management is who establishes the objectives and priorities and how these are determined. In theory, it should be the Commonwealth and State governments which establish national and regional forestry targets, after careful assessment of the resource base and consultations with industry, other government agencies and the public. In practice, Australian governments are often highly dependent upon statistics submitted by private enterprise, and appear to lack the necessary capacity to validate or reject such information. As much of the data is kept confidential, environmental groups or other community interests have no opportunity to consider the claims or challenge them. Frequently the settings in which policies emerge are parliamentary inquiries or closed national conferences at which statements are made by so-called experts, and judgments or resolutions are reached with little serious investigation of countervailing evidence or consideration of the implications of decisions⁷⁸.

A classic example of this process is the FORWOOD Conference held in April 1974. Organised by the Australian Forestry Council, a committee consisting of the Ministers of the Commonwealth and each State responsible for forestry issues, the conference brought together senior officers of public forestry authorities, representatives of private timber corporations and some research scientists⁷⁹. Its supporters claimed that the Australian

78 Davis B.W. 'Project Evaluation and the Public Interest', in Roe O.M. (Ed), *Energy in Tasmania 1980-2000*, Proceedings of an ANZAAS Seminar, Hobart, February 1980, pp. 109-120; Gelpe M., and Tarlock A., 'The Uses of Scientific Information in Decision-Making', *Southern Californian Law Review*, Vol. 48, 1974, pp. 371-427.

79 Eight panel reports were prepared and submitted to the Conference. Each report contained findings and recommendations subsequently adopted by the Conference. None of the statements were closely checked and some errors were identified later. See Australian Forestry Council, Forestry and Wood-Based Industries Development Conference : *The FORWOOD Reports*, (8 volumes), Australian Government Publishing Service, Canberra, 1974 and 1975.

Forestry and Woodbased Industries Development Conference would be '... the basis of government policies for the next fifty years or so'. Regrettably, this prognostication seems to have been correct, as many of the statistics and resolutions flowing from that meeting have become enshrined in government thinking in recent years, and have resulted in policies and programmes the genuine need for which has never been properly vindicated.

Within months of the FORWOOD Reports being published, a highly detailed critique appeared from a most unlikely source : two philosophers from the Australian National University compiled a well-researched document entitled The Fight for the Forests⁸⁰. The authors faced vitriolic criticism from professional foresters, but the central arguments remain largely undisputed and have been further vindicated by the efflux of time⁸¹. Even if some of the evidence compiled by the authors is rejected as erroneous, the fact remains that many of the forecasts made during the FORWOOD Conference appear flimsy and suspect. In practice, the 1975 Borrie Report on Australia's population growth drastically reduced earlier demographic projections and undermines the FORWOOD estimates. Nonetheless, the latter are often quoted as infallible guides to forestry development and a basis for government subsidies for forestry production⁸².

In a detailed and heavily documented exposition, the Routleys examined many aspects of Australian forestry policy:

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- 80 The Routleys had commenced drafting their book prior to the FORWOOD Conference, but found the Conference a matter of some provocation and interest, to the point that their discussion attacked many of the basic assumptions of that assembly. The Routleys explain their values and outlook at the beginning of the publication.
- 81 See critical reviews of the Routleys' book in forestry journals 1975. Compare French's reassessment in 'Australian Forest Policy : A Critical Review', *op. cit.*
- 82 Note the frequent quotation of statistics from the FORWOOD Reports in government publications and forestry journals.

- (i) prediction of timber supply and demand;
- (ii) arguments about profitability and economic desirability;
- (iii) the environmental costs of intensive production;
- (iv) social implications of forestry activities;
- (v) alternative forestry; and
- (vi) forestry ideology.

Their key criticisms of the FORWOOD Conference Reports and the format of the assembly may be summarised as follows:

(a) Representation

Australian environmentalists claim that they were deliberately excluded from the Conference in favour of timber industry representatives. The attendance list appears to confirm this point⁸³. The organisers refute the claim, arguing that the Conference was a gathering of technical experts, at which academic scientists, conservationists, trade union representatives and consumer groups would have provided little useful input. The reality is that the Conference was intended to provide a forum on resources important to the national economy and Australia's quality of life for a considerable period ahead, hence representatives of interest groups outside the forestry industry should have been invited. In the event, of the non-official bodies represented on the reference panels, forty-five were from the private forestry industry and the only conservation organisation invited to participate, the Australian Conservation Foundation, eventually withdrew in protest at the imbalance⁸⁴. At earlier forestry conferences held in 1971 and 1972, concern had been

83 Each volume lists membership of the reference panel and their organisational allegiance. Note that some national parks officers were included, but very few representatives of non-governmental institutions outside the timber industry itself.

84 Information obtained from interviews with officers of the Australian Conservation Foundation, also comment in the Routleys' book.

expressed by delegates about the so-called 'environmental threat', so that organisers acted accordingly, but several conservation groups did seek to attend and were rejected. The Routleys claim that scientific specialists were accorded similar treatment but some forestry spokesmen expressed concern that 'emotional environmentalists' would divert the conference from its 'real' business, i.e. wood production. Others suggested that token representation on the Multiple-Use Panel would suffice to cover all social and ecological issues.

(b) Forestry Ideology

Critics of the FORWOOD Conference, such as the Routleys, cite it as a prime example of an industry promoting its own welfare through forecasts designed to advocate 'healthy growth', government financial assistance and subsidies or tariff protection, denigration of opponents (including national park services, water boards and other land agencies, as well as conservation groups), and attempts to dismiss employment losses and environmental damage by the industry as 'necessary costs of economic progress'⁸⁵. The Routleys go further and seriously question the hidden assumptions that underlay the Conference. Stripping away the rhetoric, the industry allegedly based its case on the following views:

- (i) that production goals for public forests can and should be set in terms of high anticipated consumption of wood products by private enterprise and that all public forests should be open to such exploitation;

85 *The FORWOOD Reports*, Panel 4: Harvesting; Panel 5: Wood-based Industries; Panel 8; Education, Training, Research and Manpower, *op. cit.*

- (ii) that the continued growth of all sections of the forest industry is socially desirable and that public funds should be committed to support and subsidise the industry; and
- (iii) the notion of social costs does not seriously arise except in isolated cases, and that in any event, technological solutions could probably be found for such situations⁸⁶.

As the Routleys convincingly demonstrate, each of these propositions is open to serious challenge, but no hint of doubt is apparent in the FORWOOD Conference proceedings.

(c) Production and Economic Forecasts

Underlying the economic statistics of the FORWOOD Conference were two unstated but heroic assumptions: that exponential economic growth and resource usage would continue unabated and that all production of the industry was socially necessary and beneficial. Within conference documents and debates, social costs attributable to the industry were ignored and no detailed figures were produced to justify royalty levels, subsidisation, regional economic and employment impacts or end-uses, such as the packaging industry. The level of public infrastructure services necessary to support woodchip operations were not costed and only lip service was paid to employment benefits, without any recognition of the fact that capitalisation of the sawmilling industry was squeezing out small sawmillers in favour of a few larger firms⁸⁷.

The Routleys also contended that although there were frequent claims that cost-benefit studies had demonstrated the value of the industry, few detailed disclosures of calculations for public scrutiny occurred, and of those that were available, many of the assumptions and judgments

86 Routley R., & Routley V., *The Fight for the Forests*, *op.cit.*, pp. 1-17.

87 *Ibid*, pp. 38-46 and pp. 140-152; also Appendices 1 and 6. Note also Kemp A.G., 'History and Development of the Exclusive Forest Permit and Licensing System' (re sawmilling), public seminar 'Allocating the Forest Resource', Hobart, June 1981.

appeared inconsistent and open to question⁸⁸. In other statements summarised in publications, land costs and other factors were ignored or explained away in simplistic assertions which defied reality. Opportunity costs were similarly neglected, but strong emphasis was placed on slippery calculations of input-output analysis and so-called 'multiplier effects' of expenditure⁸⁹. Despite all the claims about the forestry industry's contribution to the national economy, the FORWOOD Survey Report 1 contained the following candid admission:

'... normally, returns from forestry are less than those that can be obtained from most other long-term investments and therefore if self-sufficiency in forest products is accepted as a national objective, it will be necessary to request continuation and expansion of the assistance already provided by the Australian Government.' 90

The question of how such aid is to be funded (presumably by the taxpayers) was studiously avoided.

(d) Claims for Government Support

According to the Routleys, throughout discussions at the FORWOOD Conference there was a tendency to depict the Australian forestry industry as a struggling and under-privileged group, attempting to cope with awkward economic circumstances. Yet, as the Routleys note, the Marketing Panel at the Conference included representatives of sixteen of the wealthiest Australian companies in terms of forestry capitalisation⁹¹. Paper production is clearly in the hands of three or four major firms which control a whole network of subsidiaries, including sawmills, plywood production and a variety of associated timber-related enterprises⁹². Concentration of ownership and

88 Routley R., & Routley V., *The Fight for the Forests*, op. cit., pp. 76-88 and pp. 120-152.

89 *Ibid*, pp. 145-156.

90 *The FORWOOD Reports*, Report of Panel 1: Land Use and its Role in the Economy, op. cit., p. 30.

91 *The FORWOOD Reports*, Report of Panel 4: Harvesting, op. cit., p. 3.

92 Department of Industry & Commerce, *The Australian Wood Pulp Industry : Supply Potential*, op. cit., pp. 32-40; Routley R. & Routley V., *The Fight for the Forests*, op. cit., p. 187 and pp. 273-286.

profitability is very high, but this has not prevented the industry from submitting a wide range of requests to government for tree-planting grants, subsidisation of plantation forestry and freight costs, taxation concessions and tariff protection, educational grants for forestry technicians and the like⁹³. Behind this comprehensive series of claims were various supporting requests not ratified by the Conference but lodged by individual firms. In summary, an intensive and extensive lobbying campaign was mounted for government assistance, principally aimed at benefits for large-scale firms rather than small sawmillers, who in any case were barely represented at the Conference.

5.12 OPPORTUNITIES FOR ACTIVISM

At the same time as the Routleys publication appeared, a number of other reports about Australia's woodchip industry and forestry policy generally, were released⁹⁴. Many of these statements were critical of existing practice and provided a factual basis highly advantageous to environmentalists who might wish to agitate for substantial reform of resource management practices. Yet the opportunity appears to have been missed. No single reason can be identified; rather a number of factors existed in conjunction.

From the available evidence, including interviews with leading conservationists of the period 1971-76, the following problems may be identified:

- (i) a number of environmental groups were still emergent or seeking consolidation in 1973-74, and were not fully prepared for sustained and complex campaigns;

93 Routley R. & Routley V., *The Fight for the Forests*, *op. cit.*, pp. 255-256 and pp. 154-165; *The FORWOOD Reports*, Report of Panel 7: Finance, *op. cit.* pp. 3-7 (Recommendations).

94 Jones R., (Ed.), *The Vanishing Forests*, *op. cit.*; Report of the Senate Standing Committee on Science & Environment, *Woodchips and the Environment*, *op. cit.*; Tasmanian Conservation Trust, *The Future of Tasmania's Forests*, Hobart 1974; Conacher A., 'Environment-Industry Conflicts :The Manjimup Woodchip Industry Proposal, Southwestern Australia', *Geowest*, No. 4, Department of Geography, University of Western Australia, 1975, pp. 1-44.

- (ii) the more experienced organisations, such as the Australian Conservation Foundation, were conducting battles on a number of fronts, some of major dimensions such as the Lake Pedder controversy;
- (iii) few conservation groups of that time were equipped or experienced to lobby individual parliamentarians directly; the tendency was to engage in broad-based media exposure of issues without proposing practical solutions;
- (iv) forestry policy is diffuse and multi-dimensional and general attacks on all aspects of forestry practice failed to gain public comprehension or acceptance; and
- (v) the forestry industry and public forestry agencies fiercely resented criticism and presented a united front within government against environmentalists⁹⁵.

The net result of these countervailing pressures, coupled with lack of an integrated conservationist campaign, was that Australian forestry policy received intermittent and regionally diverse attention until 1980, when the Australian Conservation Foundation began to generate a national programme of activism.⁹⁶ Some of the more local attempts at lobbying and influence are recounted below.

5.13 THE WOODCHIP CONTROVERSY IN NEW SOUTH WALES AND TASMANIA

Claims and counterclaims about Australia's woodchip industry are so bewildering that it is difficult to achieve a balanced judgment in regard to the general social, economic and environmental implications of woodchip production and export⁹⁷. A complex pattern of costs and benefits is

95 This list was compiled by the author, but will be substantiated in subsequent case-studies.

96 The catalyst for action by ACF was the receipt of a substantial bequest from a deceased benefactor.

97 For discussion see Report of the Senate Standing Committee on Science and Environment, *Woodchips and the Environment*, op. cit.; Australian Conservation Foundation, *The Great Forest Sellout : The Case Against the Woodchip Export Industry*, op. cit., pp. 6-7.

involved over an extensive time horizon, and no one is yet in a position to estimate precisely what the gains and losses will be in the longer term⁹⁸. In this situation, the public understandably becomes confused about the issue, uncertain whether to believe the claims of conservationists or of the woodchip industry itself. Whatever the truth of the matter, it is apparent that conservationists face considerable difficulties in promulgating their message to persuade individual citizens of the validity of their assertions. As noted in Part A of the Chapter, there is an additional dilemma: whether to mount a truly national campaign against woodchip exploitation or attempt to apply regionally selective pressures for reform; also whether to concentrate upon lobbying individual politicians or hope to gain massive public support for reform. In practice, a piecemeal and regionally orientated series of campaigns appears to have been mounted⁹⁹.

Woodchip production and export is now well established in New South Wales, Tasmania and Western Australia, with additional projects mooted in other States, but all levels of government would prefer vertical integration of the industry into woodpulp production, rather than any increase in woodchip exports¹⁰⁰. The economic and environmental implications of woodchip production have received considerable attention in a variety of government reports and environmental impact statements, but the conclusions are somewhat ambivalent and inconsistent¹⁰¹. A number of assessments produced by the forestry industry itself promote the regional economic and social benefits of woodchip exploitation, but scientists, economists and

98 The woodchip industry has been in existence for one decade; demand has been based upon estimates for several decades ahead.

99 For discussion of these campaigns see newsletters of the Australian Conservation Foundation and the National Parks Associations of NSW and Victoria.

100 Department of Industry and Commerce, *The Australian Wood Pulp Industry : Supply Potential*, op. cit., pp. 47-59.

101 Commonwealth of Australia, *Economic and Environmental Aspects of the Export Hardwood Woodchip Industry*, op. cit., Supplementary Report of the Senate Standing Committee on Science and the Environment, *Woodchips and the Environment*, Australian Government Publishing Service, Canberra, 1978.

conservationists firmly dispute such claims, arguing that the industry viewpoint ignores many ecological and economic costs¹⁰².

The 1975 Report of the Senate Standing Committee on Science and Environment, Woodchips and the Environment, argued that although a number of environmental problems existed, curtailment of the existing woodchip programme was not warranted on environmental grounds at that time. The Committee did express concern about longer term threats, however, and strongly recommended against the extension of clearfelling outside the boundaries of existing concession areas¹⁰³. Regional employment benefits were recognised, but a number of safeguards in management practices were also sought. The recommendations of the Committee appear to have been largely ignored and no subsequent detailed investigation of woodchip practices across the nation is currently available¹⁰⁴. Other State reports have been much more emphatic about problems created by woodchip exploitation¹⁰⁵. A forestry consultant went even further, claiming that:

'... the 400,000 people who live in Tasmania enjoy one of the richest and one of the most beautiful parts of the earth. What they have done with it, and what they are doing to it, is an offence against nature and a crime against their fellow men.'

Predictably, this report was suppressed¹⁰⁶.

The two conservation groups most vocal about woodchip production and export have been the Australian Conservation Foundation and the National Forests Action Council. The latter is a national body formed in August 1976, comprised of virtually autonomous State and local branches. Herein lies a problem; each group has tended to go its own way and little cohesion or

102 Wesley D., Douglas J., Woolcock I., & Bennet J., 'The Economics of the Woodchip Industry from the Viewpoint of the Forest Owner and the Community', *Search*, Vol. 7, No. 6, June 1976.

103 Report of the Senate Standing Committee on Science and Environment, *Woodchips and the Environment*, *op. cit.*, pp. 5-17.

104 A Standing Committee of the Commonwealth Parliament is currently investigating land-use policy in Australia, including forestry issues.

105 Parliament of Tasmania, *Report of the Board of Inquiry into Private Forest Development in Tasmania*, Government Printer, Hobart 1977; Forestry Commission of Tasmania, *Annual Report 1979-80*, Hobart 1980.

106 Young D., *Consultant's Report No. 3: An Appraisal of the Prospects for Tasmania's Economic Future*, Tasmanian State Strategy Plan Task-Force, Hobart, June 1976, p. 59.

selectivity in campaigning has resulted. Whereas ACF has tended to rely upon factual and well-documented reports and broadsheets to publicise its views, NFAC has used the media to mount strong verbal attacks on the woodchip industry and State forestry authorities, but there has been little follow-up and the diverse nature of the criticisms has enabled opponents to claim that the conservation group is merely opposing timber utilisation in an unrealistic and anti-progressive manner¹⁰⁷.

An indication of the ideology and probable tactical pattern of action by environmental groups may be obtained from a perusal of the aims and objectives of the organisation. Although well-intentioned, the Native Forests Action Council reveals its broadband and rather unspecific viewpoint somewhat clearly, e.g.:

'Objective 1:

Conservation of all forest communities within all geographic regions throughout Australia should take place over a representative minimum of 15% of the original forested area at the time of European settlement, with a view to securing viable ecological reservation.'¹⁰⁸

No justification is provided for the specific percentage, nor does the statement recognise that three-quarters of the continent is arid or semi-arid, almost devoid of tree cover, while the remainder consists of highly variable terrain, with rather restricted areas of true forest.

Equally vague is Objective 5 which states a need '. . . . to work for the restructuring of the forest industry, whereby the real needs of the community and not the profit motive underlie the decision-making'¹⁰⁹.

It may appear pedantic to question such aims, but conservation groups cannot aspire to public support unless their objectives are clearly specified in simple and pragmatic terminology comprehensible to the layman.

Not all of the Council's policies and documentation lack validity; their sharp criticisms of forestry practices in relation to the Eden woodchip

107 For a discussion of the role and objectives of the Native Forests Action Council see Rawlinson P., *Woodchipping in Victoria*, Patchwork Press, Victoria, 1977, pp. 47-48.

108 *Ibid*, p. 47.

109 *Ibid*, p. 47.

operations of Harris-Daishowa induced the Forestry Commission of New South Wales to impose improved environmental safeguards¹¹⁰. The conservationists encountered stronger opposition, however, when they suggested that Eden operations should be curtailed on ecological grounds or because woodchip royalties were yielding insufficient revenues to offset public infrastructure costs and pay for Forestry Commission activities vital to the industry. Citizens of the Eden region were firm in their conviction that the woodchip export industry was an important regional employment multiplier in a centre hitherto economically vulnerable and reliant upon uncertain sea fisheries¹¹¹.

The Native Forests Action Council is not the only conservation group commenting on forestry policy in New South Wales. The environmental cause has been well served by the National Parks Association of NSW for many years and well researched articles in its journal have raised many important issues about woodchip exploitation and rainforest problems¹¹². To its credit the environmental group has frequently published the response of opponents, especially the NSW Forestry Commission, but a vulnerability exists in that the Association's newsletter tends to reach only a limited number of people who are already converted to the conservation cause¹¹³.

Groups from other States have become associated with forestry issues in New South Wales as well as in their home jurisdiction. The Conservation Council of Victoria has conducted a vigorous campaign against woodchipping of the Gippsland forests, using the Eden (NSW) example as evidence of the destruction which could occur to particular ecosystems¹¹⁴. The Conservation

110 Noted in the Director's Report to Council of the Australian Conservation Foundation, June 1981.

111 McGregor G., 'For Wran's Government the Chips are Down', *The National Times (weekly)* 21-26 February 1977.

112 See for example Falconer R., 'Washpool Wilderness : NSW Biggest Rainforest to Disappear', *National Parks Journal*, Vol. 24, No. 3, June 1980, pp. 8-10; Colley A., 'Review of Forest Ecosystems : Their Future in NSW', *National Parks Journal*, Vol. 22, No. 5, July-August 1978, pp. 12-13.

113 Few conservation journals are available to the public through community libraries or school library systems.

114 Conservation Council of Victoria, *What State is the Garden In? : A Resource Book on the Alpine and Forestry Conservation Issues in Victoria*, op. cit.; note also Australian Conservation Foundation, Special East Gippsland Issue, *Habitat*, Vol. 4, No. 2, May 1976.

Council's research officer has also demonstrated the inconsistency and inaccuracy of many official estimates of sawlog availability, raising questions about the viability of the forestry industry as a whole¹¹⁵.

Other groups have pinpointed errors and misleading statements by officers of the Forestry Commission of NSW. In turn, their own claims have been questioned by forestry officers¹¹⁶. Such conflicting evidence by interest groups appears to have made little impact upon politicians or the public. There is some unease about woodchip production, but the blanket claims of competing experts provide little guidance as to which reforms appear feasible and desirable.

Of all the Australian States, Tasmania is perhaps the most generously endowed with forestry resources relative to area. But the woodchip industry poses special problems in Tasmania, not only because nearly three-quarters of the State has been allocated as woodchip concessions and reserve cutting areas, but also because much of the woodchip extraction is located on private land, where the Forestry Commission has little power of control¹¹⁷. Existing concession boundaries were rather arbitrarily determined in the 1960s, long before accurate estimates of the resource base became available, but particular companies were guaranteed rights by legislation and it is now politically difficult to modify or revoke these provisions¹¹⁸. The Second Schedule of the Forestry Act of 1920 does permit the adjustment or revocation of cutting areas without compensation, but the Tasmanian Government has refused to invoke these provisions, fearing that to do so would drive away potential investors from this peripheral economy¹¹⁹. The situation is

115 Penna I.W., 'Victoria's Varying Forest Resource Supply and Demand Estimates', Report to the Conservation Council of Victoria, October 1979.

116 Webb L.J., & Tracey J.G., 'Border Ranges :Forestry's Pseudo Science Rejected', *National Parks Journal*, Vol. 22, No. 6, Sept-Oct. 1978, pp. 8-11; Hammond R., 'NSW Forestry Commission : An Uneconomic Concern', *National Parks Journal*, Vol. 23, No. 1, February-March 1979, pp. 12-13.

117 Tasmanian State Strategy Plan Task Force, *Working Paper No. 21: Tasmania's Forest Resources*, Hobart, May 1976.

118 Jones R., (Ed.), *The Vanishing Forests?: Woodchip Production and the Public Interest in Tasmania*, op. cit., pp. 3-37.

119 Kirkpatrick J., 'The South-West and Forestry' in Gee H., and Fenton J., (Eds.), *The South West Book*, op. cit., pp. 196-197. See also Forestry Act 1920 and Amendments.

further compounded by overcommitment of the sawlog resources of the State, caused by poor management and fire damage in the past¹²⁰.

Concentration of ownership of woodchip and paper pulp production is very pronounced, with the major companies exerting considerable political influence¹²¹. Conservationists have encountered great difficulty in penetrating the political arena to present their views, which are usually opposed by a Forestry Commission-industry alliance. The environmentalists have been unable to mount any sustained campaign, being already committed to a succession of other disputes such as the Lake Pedder controversy, Precipitous Bluff case, Franklin-Lower Gordon Rivers energy proposals and other issues. The two groups which appear to have contributed most to the Tasmanian woodchip campaign are the Tasmanian Conservation Trust Inc. and the Environmental Law Reform Group at the University of Tasmania. The latter organisation published a number of monographs and research papers between 1971 and 1976¹²². These publications proved moderately influential, being used in a number of government inquiries and forcing the Forestry Commission to consider a variety of factors it might otherwise have neglected.

The Tasmanian Conservation Trust Inc. opened a discourse with the Forestry Commission, conducted a number of seminars in which conservationists, industry representatives and professional forestry officers could express their views, and commissioned its own study of forestry economics and practice in the South-West region of the State¹²³. Despite initial disclaimers, the

120 Parliament of Tasmania, *Report of the Select Committee of the Legislative Council on Forest Regeneration*, Government Printer, Hobart 1972.

121 Watson C., 'The Tangled Web : Woodchip Ownership leads to Multinationals', Supplement to *Togatus*, Students Union, University of Tasmania 1974.

122 Jones R., (Ed.), *The Vanishing Forests?: Woodchip Production and the Public Interest in Tasmania*, op. cit. Other publications include *Industrial Pollution and the Law in Tasmania*, and *The National Estate and the Public Interest : Precipitous Bluff, Environmental Rights and Mining*.

123 Tasmanian Conservation Trust, *The Future of Tasmania's Forests*, Hobart 1974; Harwood C., and Kirkpatrick J., *Forestry and Wilderness in the South-West*, Tasmanian Conservation Trust, Hobart 1980.

Forestry Commission ultimately admitted that alternative management programmes were feasible and could save the wilderness from destruction, but then argued that it was politically impracticable to amend existing arrangements¹²⁴. At a professional officer level, mutual respect had grown between the foresters and eco-activists, but in the higher echelons of government, political expediency remained the order of the day.¹²⁵

Considering the Australian woodchip debate in general, it is apparent that the environmentalists have not yet succeeded in their aim of seriously curbing the industry. There are many unknown factors involved in woodchip exploitation and thus far the conservationists' claims have proved no more convincing than those of their opponents. Governments are now more cautious about the conditions attached to woodchip licences, and field practices have been slightly improved, but the volume of woodchip exports continues unabated, apart from any cutbacks caused by general economic recession¹²⁶.

5.14 TERANIA CREEK AND THE RAINFOREST CAMPAIGN

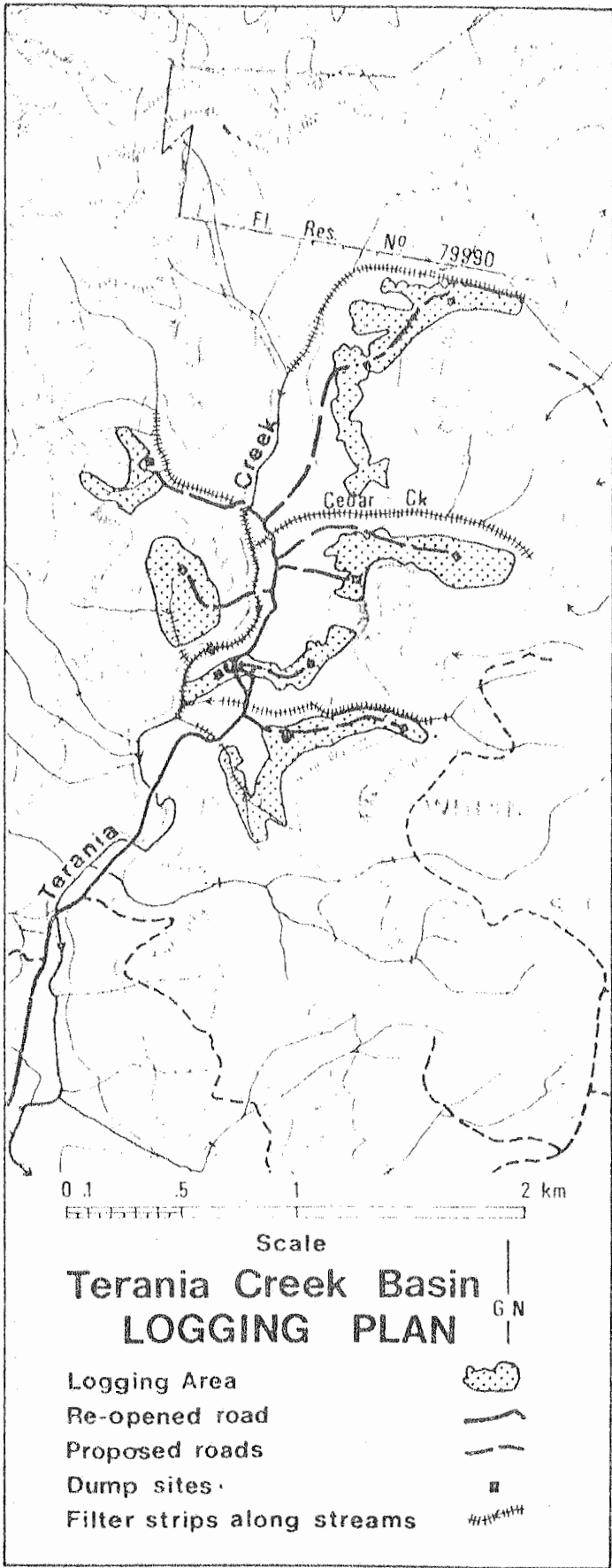
As noted in Section 5.7 of the Chapter, destruction of the rainforests of eastern Australia is occurring at an alarming rate, particularly in tropical and sub-tropical regions. Land clearing and selective logging are pervasive, but a further threat arises from the judgment of some professional foresters that, wherever feasible, 'overmature' rainforest should be replaced by more 'productive' eucalypt species¹²⁷. Even in the island State of Tasmania, where temperate and sub-antarctic rainforest is common, this philosophy prevails, abetted by a more recent notion that provided suitable

124 Correspondence between the Forestry Commission of Tasmania and the Tasmanian Conservation Trust Inc. March 1978-July 1980.

125 For a startling presentation of the views of a senior forestry officer, see *Australian Forest Industries Journal*, February 1980, pp. 21-22.

126 A downturn in the economies of western industrial nations has induced Japanese paper manufacturers to reduce the volume of Australian woodchip imports.

127 Australian Conservation Foundation, *Rescue the Rainforests Educational Background Report*, Melbourne, 1981; Douglas I., 'Pressure on Australian Rainforest', *Environmental Conservation*, *op. cit.*, pp. 109-120.



(Source: *National Parks Journal*, April 1980)

MAP 6 : TERANIA CREEK BASIN

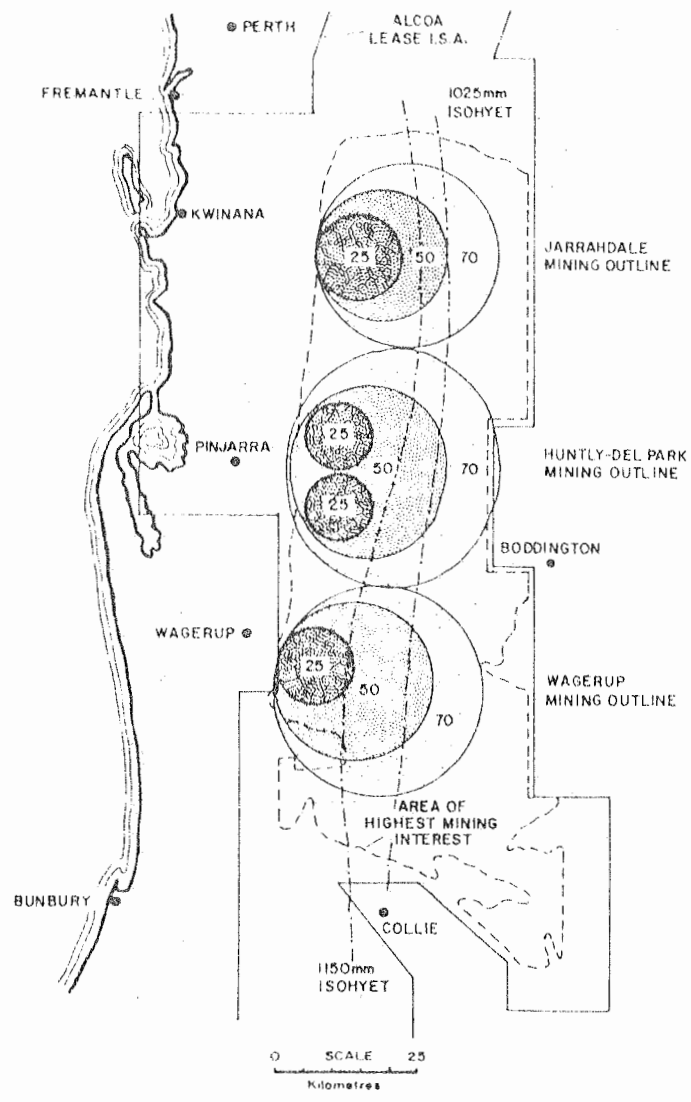
chemical bleaching can be devised, dark rainforest species will eventually be exploited for woodchip production or woodpulp¹²⁸. Scientists have constantly referred to the beauty and diversity of rainforest species and their educational, inspirational and ecological value, but this has not prevented the destruction of rainforest in any way¹²⁹. Eco-activists in the eastern Australian States have now been reduced to defending isolated pockets of rainforest from timber companies, hence it is not surprising that confrontation over forest remnants is escalating rapidly with physical violence occurring on occasion. The Terania Creek controversy is evidence of this trend¹³⁰.

Terania Basin is a small cliff-girt valley in the Nightcap Range near Lismore, New South Wales. The Basin is about 700 hectares in area, supporting sub-tropical rainforest on its lowest slopes adjacent to the streams. A tall coachwood and brush-box forest clothes the nearby slopes and since the early 1970s the NSW Forestry Commission has developed firm plans to log the area, despite its small potential contribution to overall timber production in the region. The Terania forest is thought to be the largest surviving remnant of the 'Big Scrub', once the most extensive tall sub-tropical rainforest in Australia. The idea of a national park in the area dates back to 1937, when the then Minister for Mines and Forests gave an explicit undertaking that such a reserve would be established. The Second World War intervened and despite later promises, the government did not act. When conservationists resurrected the notion in the 1970s, they were told that the Forestry Commission had 'misaid' most of the records relating to the proposal. They were not told of the Commission's plans to log the area and when in

128 Balodis V., 'The Measurement of Colour of Pulpwood Chips', *APPITA Journal*, 1975; also Unwin P.T., State Co-ordination Council Discussion Paper No. 1, *Tasmanian Forests and Forest-Based Industries : Planning Proposals and Projected Developments 1977-2000*, Hobart, 1977.

129 Raymond R., and Serventy V., *Rainforests*, *op. cit.*

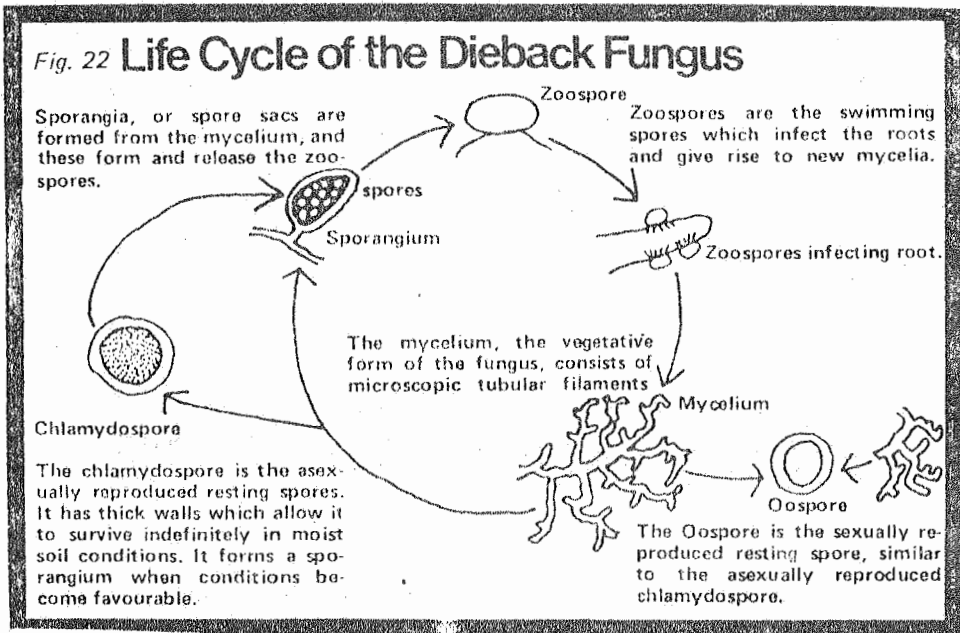
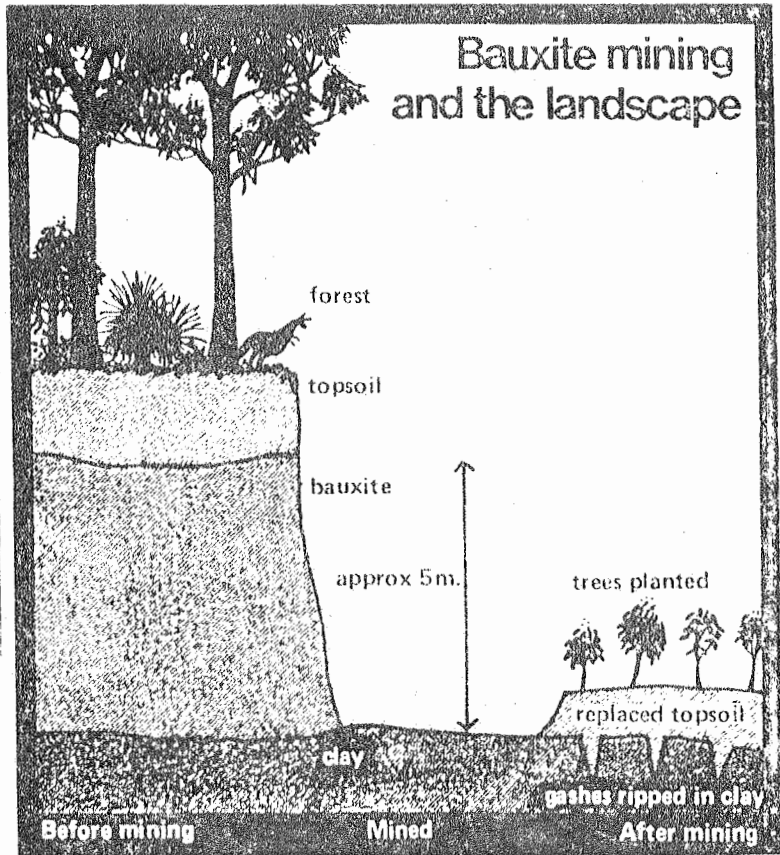
130 Grainger A., 'The Battle of Terania Creek', *The Ecologist*, Vol. II, No. 1, 1981, pp. 44-47.



Schematic diagram of areas of forest affected by bauxite mining after 25, 50 and 70 years at refinery capacities of Kwinana 1.4 million tonnes, Pinjarra 4.0 million tonnes, Wagerup 4.0 million tonnes. (Bauxite distribution in 25-50 and 50-70 year mining areas assumed to be half as dense as in 25 year mining areas).

Source: TAG Report see note 25

MAP 7 : BAUXITE MINING AREAS IN JARRAH FOREST, WESTERN AUSTRALIA



(Source: Australian Conservation Foundation, *Habitat*, Vol. 4, No. 6, May 1977)

DIAGRAM 6 : THE IMPACT OF BAUXITE MINING ON JARRAH FOREST

important underground water supplies¹⁴². So serious has the problem become that the Western Australian government has invited UNESCO's Man and Biosphere Committee in Australia and the Commonwealth Scientific and Industrial Research Organisation (CSIRO) to co-operate in seeking a solution to the ecological disaster¹⁴³.

It is pertinent to ask why the government has not intervened to prevent forest clearance and stripmining; the answer lies in the fact that the development ethic is so entrenched in the dominant Premier, Sir Charles Court, that the entire parliamentary and bureaucratic machinery is subservient to his will and ready to accept environmental risk rather than impede powerful entrepreneurs¹⁴⁴. There is little doubt that the Premier's forceful rhetoric has attracted multinational investment and an influx of materialistic individuals to Western Australia, but the social costs appear to have received scant consideration in the process. As Hughes points out, any form of opposition to economic development is regarded by Sir Charles Court and his colleagues as neo-communist and outright subversion¹⁴⁵.

The major conservation groups opposing the government's policy have been the Campaign to Save the Native Forests (CSNF) and the Conservation Council of Western Australia, but other groups such as the Australian Conservation Foundation, the South-West Forests Defence Foundation and various university academics have been involved. There are many conservative interest groups and anti-conservation lobbyists, e.g. the mining industry

142 Campaign to Save Native Forests (W.A.), *The Threat to the Forests: The Impending Manjimup Woodchip Project*, Perth 1975; Hughes O., 'Bauxite Mining and Jarrah Forests in Western Australia', in Scott R., (Ed.), *Interest Groups and Public Policy*, op. cit., pp. 170-193.

143 UNESCO Man and Biosphere Programme (MAB), *Working Papers of Exploratory Workshop on Land Use and Stream Salinity Management in South-West of Western Australia*, CSIRO Division of Land Resources Management, Perth, November 1980.

144 For examples of Sir Charles Court's rhetoric and views, see Hughes O., *An Examination of the Role and Capability of Government in the Dispute over Bauxite Mining in the Darling Ranges of Western Australia*, honours thesis, Department of Politics, University of Western Australia, 1979.

145 Hughes O., 'Bauxite Mining and Jarrah Forests in Western Australia', in Scott R., (Ed.), *Interest Groups and Public Policy*, op. cit. pp. 172-173.

and major entrepreneurs such as Lang Hancock, who individually and collectively ally with the government; hence the fight for the forests of Western Australia represents a major clash of values and ideals about 'development'.¹⁴⁶ In general, it would appear that the community tends to side with the government, an attitude which is not surprising given the propaganda about economic expansion and the value of mining. In such circumstances, environmental groups face immense difficulties in persuading the public of the validity of their cause. Strongly entrenched government intransigence also induces extremism, hence a few eco-activists have appearance in the courts, defending charges of unlawful occupation of mining sites¹⁴⁷.

Bauxite in the Darling Ranges occurs as alumina pockets within the laterite soil mantle upon which the jarrah forest grows, with the prime mineral deposits occurring in the middle and upper slopes of well-drained ridges. Economically viable ore bodies are those where the available alumina levels are at least 27.5 percent, with an ore thickness of four to six metres, with 2.5 metres regarded as the minimum acceptable thickness. The size of the individual deposits varies widely, but may cover areas of considerably more than ten hectares and may occupy up to thirty percent of the landscape in areas of high ore concentration. As a result of the economics of the industry, and the extensive nature of bauxite deposits and their proximity to ground surface, open cut 'strip' mining techniques of extraction are used. Such mining is a relatively recent phenomenon, dating from the evolution of large-scale earthmoving equipment, but the ecological impact is obviously massive¹⁴⁸.

146 *Ibid*, pp. 170-174.

147 Campaign to Save Native Forests, 'Bauxite Battle Continues', Information Broadsheet, Perth, March 1979.

148 Conacher A.J., 'Water Quality and Forests in Southwestern Australia: Review and Evaluation', *Australian Geographer*, Vol. 14, 1979, pp. 150-159; Australian Conservation Foundation, Special Issue: 'The Forests of Southwestern Western Australia', *Habitat*, Vol. 4, No. 6, May 1977, pp. 17-19 especially.

The relatively high alumina content of lateritic soils in the Darling Ranges was known as early as 1912, but proving of the deposits did not occur until the late 1950s. An approach was made to the Aluminium Company of America (ALCOA) to provide technology and finance in exchange for a majority interest in exploitation of the deposits. Mining commenced at Jarrahdale in 1963, with a small operation supplying a refinery at Kwinana, which had the capacity to produce 220,000 tonnes of alumina annually. By incremental increases in production and the establishment of a second major refinery at Pinjarra, with a third major plant at Wagerup, ALCOA's ultimate plans are for a total of 9.4 million tonnes annual capacity at all three production centres¹⁴⁹. Conservationists question the overall economics of this expansion programme, as a number of new smelters are proposed elsewhere in Australia and in other parts of the world, possibly leading to a glut in production by 1985. If the Western Australian proposals reach fruition, some 292,000 hectares of forest are likely to be cleared, posing a direct threat to Perth's water supplies, which are already under considerable stress¹⁵⁰.

Environmentalists tend to raise two major objections to bauxite mining:

- (i) it has been clearly demonstrated that destruction of the jarrah forests leads to major ecological damage arising from loss of nutrients, major landscape modification, spread of *phytophthora cinnamoni* (dieback or jarrah rootrot) and significant damage to underground water supplies through salinity and pollution.

149 Hughes O., 'Bauxite Mining and Jarrah Forests in Western Australia', in Scott R., (Ed.), *Interest Groups and Public Policy*, *op.cit.* pp.174-175.

150 *Ibid*, pp. 175. Western Australia, Department of Conservation and Environment, *Bauxite Mining in the Darling Range, Western Australia: A Review for the Environment Protection Authority by the Technical Advisory Group*, TAG Report, Perth, 1978.

These water supplies are vital to the metropolitan area because of the semi-arid climate and limited catchments and streamflow;¹⁵¹

- (ii) it has been claimed that Western Australia is not receiving adequate compensation in mining and forestry royalties for the ecological damage and public infrastructure support involved¹⁵².

Recent plans to expand alumina smelting capacity have also enlivened the energy debate, eco-activists arguing that the community will be subsidising the cost at which bulk electrical power will be supplied to the multi-national corporations operating the alumina refineries. Since Western Australia lacks substantial coal deposits or hydro-electric potential, either high-cost oil-fired thermal power stations or nuclear generation may be required¹⁵³. The counter-response from the industry is that they are making a substantial contribution to the State's economy, jarrah reforestation is being attempted and depletion and pollution of water supplies is more attributable to agriculture than to forestry and mining operations.

Evidence seems to suggest that the claims of the conservationists are substantially correct and that bauxite mining in the jarrah forests may have considerable social, economic and environmental costs to the Western Australian community. Hughes and other academic contributors, provide convincing evidence that 'sweetheart deals' have occurred between the State government and the multi-national corporations, the latter being in a powerful position because ALCOA's operations alone involve sales figures

151 Carbon B., (Ed.), *Groundwater Resources of the Swan Coastal Plain*, CSIRO Division of Land Resources, Perth 1978; Fleay B.J., 'The Dynamic State of Perth's Water Supply', *Water*, Vol. 5, No. 1, March 1978; Western Australia, *Steering Committee on Research into the Effects of Bauxite Mining in the Darling Ranges: Report*, Perth, 1978.

152 Flynn C., 'Bauxite Mining in Western Australia', *Journal of Australian Political Economy*, No. 5, 1979, pp. 70-75.

153 Campaign to Save Native Forests, *Energy Requirements of the Alumina Industry in W.A.*, Perth, June 1978; State Electricity Commission of W.A., *Western Australian Fuel Demand 1977-1988*, (Report RP 68), Perth, 1978.

equivalent to at least one third of the State budget¹⁵⁴. In Western Australia, ALCOA has rights over an enormous tract of territory for 84 years, pays extremely low royalties (only 0.3% of sales in 1977), receives favourable treatment for gas supplies and usage of the railways, as well as other State benefits¹⁵⁵. It is also irrefutable that the spread of jarrah dieback disease has increased rapidly following the commencement of stripmining activities. There are also disputes about the prospective effectiveness of regeneration programmes, many decisions being taken without any clear indication of the implications¹⁵⁶. Western Australia is already deficient in forests by national and international standards, therefore any threat to this resource is a serious matter indeed. When bauxite mining is carried out in three principal catchments of the city's water supply, the risk is compounded, especially when salinity is already evident.

What has been the response of the key principal land-use authorities to these challenges? Some officers have spoken out against these practices, but have suffered for doing so. In general, while conceding that problems exist, the tendency has been to play down any harmful effects and argue that environmental safeguards suffice¹⁵⁷. The only genuine opposition has come from a few conservation organisations and university academics who experience great isolation, frustration and the vituperation of political and corporate opponents. When Dr Conacher, of the University of Western Australia, published a number of research papers on the bauxite-jarrah issue

154 Hughes O., 'Bauxite Mining and Jarrah Forests in Western Australia', in Scott R., (Ed.), *Interest Groups and Public Policy*, op. cit., pp. 177-178.

155 *Ibid*, p. 177; Campaign to Save Native Forests, *The Bauxite Rip-off*, Perth, February 1980 (Contrast the latter with ALCOA of Australia, *Annual Report*, 1978).

156 Campaign to Save Native Forests, *Our Water Threatened*, Perth, February 1978; Kearne P., 'The Dying Forest Scandal', *National Times* (weekly), 10 January 1977, p. 33; Old K. (Ed.), *Phytophthora and Forest Management in Australia*, CSIRO, Canberra, 1979.

157 Hughes O., *An Examination of the Role and Capability of Government in the Dispute over Bauxite Mining in the Darling Range of Western Australia*, op. cit., pp. 45-46.

attempts were made to silence him, but fortunately academic freedom prevailed¹⁵⁸. The Institute of Foresters, a professional body, has also condemned existing practices, even though some of its members are employed by forestry companies¹⁵⁹.

Given that such intransigence exists at political levels, it is not surprising that eco-activism in Western Australia has escalated from attempted consultation with bureaucrats, to media exposure of the situation, to non-violent occupation of worksites, and subsequently a class action in law undertaken in the United States against ALCOA. Two of the principal environmental groups are the Conservation Council of Western Australia and the Campaign to Save Native Forests (CSNF)¹⁶⁰. The latter organisation has many idealistic aims and therein lies its vulnerability, since it is extremely difficult to project abstract notions to a largely indifferent public already sated by press campaigns and political rhetoric about economic growth.

CSNF has relied upon public meetings and car bumper stickers because the press has been warned by industry not to report the views of eco-activists¹⁶¹. Attempted alliances with the largely ineffectual Labor Opposition Party in Western Australia have not proved particularly fruitful, hence two non-violent occupations of the new alumina refinery site in Wagerup occurred in 1979. The CSNF justified this tactic in the following way:

'... Basically the ideas behind this form of action are based on the fact that there are times when all normal and legal remedies against an obvious wrong have been exhausted. Eventually concerned

158 Information obtained in interview with Dr Conacher, September 1979.

159 Institute of Foresters of Australia, Western Australian Division, *Bauxite Mining in the Darling Ranges*, Perth, May 1980.

160 The Campaign to Save Native Forests is a relatively radical organisation, but its attitude is perhaps created by the extremism of its opponents. The group has no identifiable links to a political party and focusses almost solely on forestry issues.

161 Comment by the Director of the Environment Centre of Western Australia.

people lacking a formal power base must use the moral power of their own example in placing themselves in a position of relative danger or in conflict with the existing power. The existing law can be, as in this case, created by a government which shares a complete unity of interests with the powerful forces of exploitation and selfishness.' 162

The response was as anticipated: arrest and fines, condemnation as 'anarchists' by State politicians and the introduction of new regulations imposing severe penalties for such trespass. It is debatable whether the tactics gained support for the cause, but it is certain that a great deal of publicity resulted¹⁶³.

In 1981, a much more innovative and significant tactic was adopted. By seeking a class action in American courts against ALCOA, the Conservation Council of Western Australia served notice on all multinational corporations throughout the world that they might eventually face legal challenges on their home ground from international coalitions of environmentalists¹⁶⁴. In the event, the Conservation Council lost its case and incurred a substantial penalty in costs, (although these were quickly covered by donations) but all parties involved recognised that an important precedent had been established which might well apply in jurisdictions other than the United States and Australia. It would appear that government intransigence towards environmentalism acts as a spur to innovation, rather than as a deterrent¹⁶⁵. The eco-activists of Western Australia have not yet inhibited bauxite mining in jarrah forests, but they have created sufficient political concern to force the government to appoint a Darling Ranges Study Group¹⁶⁶.

162 Campaign to Save Native Forests, 'Civil Disobedience and the CSNF', *Environment W.A.*, Vol. 1, No. 4, August 1979, p. 6.

163 Hughes O., 'Bauxite Mining and Jarrah Forests in Western Australia', in Scott R., (Ed.), *Interest Groups and Public Policy*, op. cit., pp. 178-181.

164 Australian Conservation Foundation, 'Fight for the Jarrah Forest Goes to the U.S. Federal Court', *ACF Newsletter*, Vol. 13, No. 3, April 1981, p.1; Campaign to Save Native Forests, *Jarrah Class Action Broadsheet*, Perth, June 1981.

165 Marsh A., *Protest and Political Consciousness*, Sage Publications, Beverley Hills, Calif., 1978.

166 This group is now operational and publishes a newsletter on its activities. It is too early to predict whether its research recommendations will have any influence within government.

5.16 SOME GENERAL OBSERVATIONS

It is interesting to note that in the Western Australian case, more attention has been focussed on mining activities than on the value of the forest resource itself. This reinforces the conclusion reached in Chapter 4, that protagonists in environmental conflict construe the issue in rather narrow and particular ways. Western Australian conservationists have had little room to manoeuvre; their opponents are implacable and unlikely to seek negotiation or compromise, hence the only available remedy has been a protracted media campaign or direct action in special circumstances. Reform is unlikely to be achieved in the short term, the only hope lies in educating the public and awaiting the emergence of a more liberal political regime. It is noticeable that in both the Terania Creek and Darling Ranges campaigns, the leading conservation activists have not been the long-haired hippy stereotypes identified in political speeches, but university educated individuals determined to achieve social change in accordance with deliberately selected lifestyles. Skill and persistence are likely to be their hallmark.

At Terania Creek, confrontation might have been avoided if the Forestry Commission of New South Wales had demonstrated more sensitivity, but the token offer of a public inquiry, which subsequently turned out to be a travesty of investigation, is certain to leave a somewhat bitter aftermath. Doggedness in the face of adversity is an essential weapon of interest groups, however, and as the woodchip campaign has demonstrated, a considerable period may elapse before incremental change becomes a discernible shift of direction. Voluntary community organisations do not always make the best use of opportunities within the political arena and it has taken the Australian conservation movement nearly a decade to mount a truly national

campaign to safeguard the rainforests and fight woodchip exploitation. The Australian Conservation Foundation announced such a programme in late 1980 and a network of regional campaign groups is now being established throughout the nation, following the receipt of a substantial bequest from the estate of a deceased supporter. It will be interesting to learn whether the new strategy will prove more influential than the tactics of the past.

PART D : FORESTS FOR WHOM AND FOR WHAT?

5.17 SUMMARY AND CONCLUSIONS

At the beginning of this Chapter, the question was posed: Forests for whom and for what? In the early 1970s, there would probably have been only one answer, namely timber production for the benefit of private corporations. Despite the rhetoric about multiple-use concepts and sustained yield, the reality is that the forest resource was being rapidly allocated for a narrow range of timber products. By the end of the decade the attrition rate had increased and products had become more diversified, but a change in outlook had also occurred due to the influence of environmentalists seeking amended values and practice. Issues relating to forest amenity, as well as to the scientific, educational and inspirational importance of forests, were gradually becoming legitimised within bureaucratic and political circles. The consideration of such factors is superficial as yet, but the concept of multiple-objective planning appears to be slowly gaining credence. As indicated in many forestry case-studies, the reform of resource management practices is a very gradual process.

Summarising and analysing the content of the Chapter, a number of tentative conclusions may be drawn:

- (a) Considerable risk and uncertainty pervades forestry production and forestry economics. Apart from pressing issues such as the amount of forest to be conserved or exploited, a number of variables govern anticipated yield, production costs, market conditions and regeneration prospects. Conservationists are on safe ground in challenging many of the estimates of the industry, although it is not easy to explain such technicalities to the general public;
- (b) Forestry ideology, like engineering ideology, tends to involve considerable adherence to the growth ethic. Criticism is resented as an affront to professional competence and a close symbiotic relationship has developed between professional officers in the timber industry and their public sector counterparts. This powerful alliance creates problems for environmental groups seeking to challenge existing practice, in order to introduce ecologically sound resource management practices. In regard to the latter, eco-activists may be over-confident as to what are the preferred methods.
- (c) Two major threats to the forests of Australia are attrition of rainforest areas and the growing impact of the woodchip industry. Despite the claims of conservationists, official government inquiries do not judge the woodchip industry as disastrous, but they do emphasise a number of environmental problems such as loss of nutrients, stream pollution, loss of flora and fauna, and regeneration difficulties. Academic research tends to support the eco-activists' contention that rainforest depletion and the woodchip industry also have substantial social and economic costs. The environmentalists have been able to enforce only limited reforms of forestry practice, and overall policy

is still much influenced by the dubious assessments of the FORWOOD Conference of 1974. The Conference appears to have been employed largely as a lobbying device to gain government support for the forestry industry.

- (d) The principal weakness of the forestry campaign mounted by the Australian environmentalists during the past decade has been its broadbrush approach and uncoordinated nature. Where conservationists have been able to identify specific remedies for current problems, the prospects of adoption of reform are markedly increased.
- (e) Where bureaucratic and political hostility to environmentalism is strongly entrenched, as in the Terania Creek and Darling Ranges episodes, the protagonists lack effective communication, and conflict may escalate rapidly so that a state of unreason prevails and direct physical violence becomes a possibility. The cost of alleviating confrontation is high, so all parties should have a vested interest in maintaining environmental detente.
- (f) One of the most innovative tactics adopted by Australian conservationists is the notion of challenging multinational corporations through the legal system of their country of origin. In the jarrah class action, success was not achieved, but a precedent was established with wide implications. This may not yet be fully recognised within political circles, but it is probable that the tactic will be more selectively adopted in future years. In Chapter 6, other aspects of environmental law are examined.

CHAPTER SIX

AMENITY RIGHTS AND MINERALS EXPLORATION:

THE PRECIPITOUS BLUFF JUDGMENT

PART A : AMENITY RIGHTS AND THE LAW6.1 INTRODUCTION : THE AMBIT OF ENVIRONMENTAL LAW

This Chapter considers the third strategy available to environmentalists, namely use of the law to protect environmental rights¹. Developers must work within the limits prescribed by statutes and regulations; conservationists have recourse to review and appeal procedures where such exist. If conflict escalates dramatically and normal means of redress of grievances fail, as do other means of influence, such as lobbying, then litigation is the final resort to prevent injustice or to legitimise particular actions. The procedures by which disputes are settled are prescribed by law, the only matters to be determined are who may appear before the courts, in what circumstances and on what grounds². Society must also decide whether the courts should act as catalysts for change or only as adjudicators in environmental suits.

In the main, the courts tend to be curative, operating after ills are diagnosed; but there are advocates of a more positive role: that the legal system should be the mechanism by which inappropriate environmental attrition is prevented³. The means for securing this provision is presumed to be access to the courts, so that citizens may seek to have certain actions proscribed or prevented, rather than subsequently seek legal redress after environmental damage has occurred. This is an admirable concept, often promoted by environmentalists, but the

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- 1 The phrase 'amenity rights' relates to quality of life as perceived by an individual, involving unimpaired access to common-property resources such as visual amenity, pure air and water, sunlight and other valued attributes of the environment.
 - 2 For discussion of the ambit, functions and processes of environmental law see Fisher D., *Environmental Law in Australia*, University of Queensland Press, Brisbane, 1980.
 - 3 Lanteri A., 'Environmental Protection through the Law' in Rapaport A., (Ed.), *Australia as a Human Setting*, op. cit., pp. 265-277.

question arises as to the feasibility and effectiveness of such a process. In this Chapter we shall examine one attempt to test this matter in Australia; a study of mineral exploration proposals and the attempted defence of amenity rights in the Precipitous Bluff region of South-West Tasmania.

One of the more important contributors to the debate about amenity rights is Professor Joseph Sax, whose book Defending the Environment was published in the United States in 1970⁴. This volume, and equivalent treatises published at the time, had an important bearing upon conservation philosophy and ideology, since they imparted a message many conservationists were anxious to hear. Sax argued that judicial action should be contemplated whenever other lobbying methods failed, moreover the courts should act as catalysts in strengthening and upholding the environmental rights of citizens against bureaucratic and corporate power. Sax also claimed that the courts had an obligation to act in the public interest whenever legislatures or public agencies failed to discharge their responsibility to act as custodians of common-property resources⁵.

Despite some weaknesses in detailed argument, Sax's message was influential in the United States, where environmental litigation expanded rapidly in the 1970s following passage of the National Environmental Policy Act (NEPA) of 1969. In many instances the plaintiff sought to enforce existing laws, rather than inhibit specific actions, indicating that government authorities were perhaps serving particular interests rather than the broader community. This was particularly so in mining and forestry operations, but similar evidence was available across the

4 Sax J.S. *Defending the Environment : A Handbook for Citizen Action*, Vintage Books, New York, 1970.

5 *Ibid*, Chapter 6.

entire spectrum of natural resources management⁶. In opposition to Sax's view of the necessity to overcome legislative and administrative deficiencies through court action, was the argument that environmental litigation was imprecise in its impact on the community. Moreover, the extensive time delays inherent in legal processes might impede or even prevent urgently needed public sector programmes from being implemented. There were additional claims that if the courts were opened up to environmental plaintiffs, vexatious litigation would result⁷.

Although Professor Sax's principles were feasible within the United States, amenity (environmental) rights appeared less easily established in other jurisdictions. The crux of the matter is that the United States Constitution is complemented by an individual Bill of Rights, rendering it relatively simple for citizens to seek legal redress whenever their personal freedom or privileges are threatened or violated⁸. Under Westminster systems of government more complex provisions exist, as many constitutional practices are matters of established custom and precedent rather than written guarantee. The Australian Constitution, for example, details the functions and powers of two levels of government rather than dealing with individual liberties. The shield of the Crown is strong, so that individual litigants find it extremely difficult to take action against public servants, government departments or corporations, or to force ministers to carry out their prescribed duties. Some administrative tribunals exist, but they are more concerned with the application of prescribed rules and procedures than with notions of natural justice, equity or the quality of life⁹. In British and

6 *Ibid*, Chapter II. Also Wengert N., *Natural Resources and the Political Struggle*, Doubleday, Garden City, N.Y., 1955.

7 Sax J.S., *Defending the Environment*, *op. cit.*, pp. 115-120.

8 Pritchett C., *The American Constitution*, McGraw-Hill Book Company, New York, 1968.

9 Benjafield D., and Whitmore H., *Principles of Australian Administrative Law*, The Law Book Company, Sydney, 1966.

Australian law it is property rights which are mainly protected, therefore unless some form of pecuniary (monetary) interest is involved, citizens face great difficulty in establishing amenity rights or seeking action in the public arena of collective interest¹⁰. The question is whether eco-activists recognise this fact or believe that they can gain redress of environmental grievances despite the obstacles.

Irrespective of the formidable constitutional and legal barriers involved, many lawyers believe that the courts may be an inappropriate forum in which to resolve environmental disputes. In examining the Australian situation, Professor Sandford Clark argued that environmentalists could not expect any special treatment in law, since they merely constituted another vocal interest group with a highly emotive set of claims¹¹. Professor Clark also believed that eco-activists were often their own worst enemies, adopting conflictive and intransigent attitudes which prevented compromise; furthermore they often revealed marked ignorance of administrative procedures and the law. This Australian critic of environmentalism pointed out that court action is costly and time-consuming for all the parties involved, moreover judgments often turn more upon niceties of the law than on environmental principles or the merits of the case. For these reasons, he favoured administrative review and some form of appeal provision rather than litigation¹².

These sentiments are reinforced by other commentators, but whether or not their beliefs are correct, the likelihood is that environmental lawsuits will continue to increase, as plaintiffs believe the courts

10 Whalan D.J., 'The Structure and Nature of Australian Environmental Law', *Federal Law Review*, Vol. 8, 1977, pp. 294-318.

11 Clark S., 'Conservation and Government : Towards an Understanding of Roles', *Search*, Vol. 5, No. 6, June 1974, pp. 241-248.

12 *Ibid*, pp. 244-245.

to be their ultimate focus of appeal when all else fails. The question then becomes, what means of redress are available and how effectively do these operate? Are new statutes, policies or practices required? Have environmentalists been successful in exploiting available tactics when court action is deemed essential? Case evidence is limited, nonetheless some general observations are possible: first, success for the conservationists would appear to turn much on the legislation in individual States; discernible differences appear across Australia. Second, it is the field of minerals exploration and exploitation which seems to have generated the most controversy; there are special reasons for this. Third, the principal obstacle to environmental rights would appear to be the issue of achieving 'standing' (i.e. recognition) in the courts.

Each of these speculations warrants investigation and substantiation. We shall turn first to an explanation of some fundamental characteristics of environmental law and then proceed to a case-study illustration of the factors involved.

6.2 CHARACTERISTICS OF ENVIRONMENTAL LAW

6.2.1 Underlying Philosophy : Some Basic Issues

In considering the fundamental characteristics of environmental law, one must distinguish between the intention of statutes, their subsequent interpretation and enforcement by the courts and the underlying philosophy and case precedent which often affect judgments in complex or innovative situations. In practice, one must also make a distinction between common law provisions carefully established and used over time and the newer environmental statutes often hastily assembled to deal with problems never envisaged or contemplated a mere decade ago.

In order to understand the background to environmental litigation, it is necessary to recognise that from the industrial revolution to the present time, nations, entrepreneurs and individuals have generally been intent on creating wealth through the private exploitation of public natural resources¹³. A belief in utilitarianism has been matched by regard for personal property, since private assets not only confer social status but environmental privileges as well. During the past hundred years, jurists and legislators have tended to favour use over preservation, private property rights over common property rights, and the generation of wealth and productivity over aesthetic amenity, largely because society as a whole apparently favoured that approach¹⁴. The legal revolution of the 1970s, according to Sax and others, has been the discovery of the costs and implications of the pursuit of such objectives, coupled with a shift in social values towards environmental protection and more democratic participatory decision-making¹⁵. A corollary of amended community values is that legal provisions should change to reflect the new priorities and aspirations, but there is a tendency for the law to lag behind new social conventions and expectations. Common law is based upon precedent, hence it tends to be conservative in character in the face of novel situations. Statutory law is more flexible and potentially innovative, since it can reflect expedient priorities¹⁶.

O'Riordan argues that the pulse of change in environmental law has emanated principally from the United States in recent years, based upon convictions that the law should protect individual citizens and re-assert

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- 13 Fowler R.J., 'Environmental Law - A Review of Legislative Controls Applicable to the Minerals Industry', *Australian Mining and Petroleum Law Journal*, Vol. 1, 1978, pp. 533-562.
 - 14 Sax J.S., *Defending the Environment*, *op. cit.* Chapter 3; note also O'Riordan T., *Environmentalism*, *op. cit.*, pp. 264-265.
 - 15 Sax J.S., *op. cit.*, Chapter 4; Sawyer G., 'Conservation and the Law', in Costin A., and Frith H., (Eds.), *Conservation*, Penguin Books, Ringwood, Victoria, 1974, pp. 262-277.
 - 16 Bailey K.H., 'The Constitutional and Legal Framework' in Sinden J. (Ed.), *The Natural Resources of Australia*, *op. cit.*, pp. 308-329.

their rights to a high quality environment; that the freedom of action of the individual must be tempered by an obligation to others and to future generations, and that with the aid of professionals, the community is capable of determining its own environmental destiny¹⁷.

O'Riordan believes that the eco-activists are reasonably perceptive crusaders, well aware of the fact that both common law provisions and statutory legislation tend to reflect ambient social values, but with a relatively conservative emphasis. Prospects of reform are not over-optimistically viewed or expected¹⁸. This may be an accurate assessment of the American situation where there is considerable experience in environmental law, but one can postulate that it is not necessarily an accurate reflection of Australian experience, where environmentalists have tended to engage in litigation virtually only as a last resort when other forms of redress of grievances have failed.

Professor Sax argues that the courts should have a more primary and catalytic function in shaping environmental reform and policy initiatives for the following reasons:

- (a) Political impartiality: Judges are respected for their objectivity and integrity; they lack the myopia of institutional insularity and are not easily susceptible to bureaucratic or political influence;
- (b) Interpretation of the public interest: Judges are trained to balance all the equities no matter how incommensurable these may be, but they can only do so within strict interpretation of existing judicial precedent and statutory law. The precise determination of the public interest is the unique and proper role of the legislature, but subject to this caveat, judicial weighing of evidence in particular cases is an important and essential activity of the courts;
- (c) Private citizen initiatives: One function of the courts is to redress the legitimate grievances of individual citizens by requiring responsible officials to fully justify their actions before an impartial arbiter. Not only does this have a salutary impact on efficiency of the public service, but it permits an input from affected persons otherwise excluded from decision

17 O'Riordan T., *Environmentalism*, *op. cit.*, pp. 264-265.

18 *Ibid*, p. 264.

processes. Public trust is enhanced because citizens know their interests are safeguarded; also judicial review can open up relevant information to searching scrutiny and testing¹⁹.

These are precisely the arguments that environmentalists tend to pursue, although they do not always articulate their case as succinctly and precisely as does Professor Sax. There are two difficulties, however, which Sax appears to neglect: in brief, legal process and the costs of litigation. A lacuna exists in that the role of law is to safeguard 'rights' and ensure that legislative mandates are not exceeded but fully obeyed. If certain rights do not exist, or are not constitutionally guaranteed, they cannot be protected²⁰. There is also the problem that the law is thorough, legal technicalities may influence judicial decisions whatever the merits of the case. Careful manipulation of semantics is also likely in cases where statutes or precedents are weakly defined. There is also the powerful disincentive that the losing party must normally meet all damages and costs accruing in the case. Environmental groups therefore face a high financial risk, especially in hitherto untried claims. The possibility of enormous expense deters many aggrieved parties from asserting their rights. Although legal aid is sometimes available, the problems of securing it are so great that we are not yet in a situation where the protection of legitimate rights occurs irrespective of political outlook or income²¹. In this sense, not every citizen is yet granted equality before the law. This impression is further reinforced when one examines various legal remedies and processes in finer detail. Despite an elaborate array of options, prospective plaintiffs face immense barriers in trying to assert environmental rights.

19 Sax J.S., *Defending the Environment*, *op. cit.*, pp. 108-124.

20 Yannacone V., et. al., *Environmental Rights and Remedies*, Vol. 1, Lawyers Co-op Publishing Company, New York 1972, Chapter 2.

21 Hawker G., 'The Rise and Fall of the Australian Legal Aid Office' in Encel S., and Wilenski P., (Eds.), *Decisions*, Longman Cheshire Pty.Ltd., Melbourne, 1981, pp. 60-73

6.2.2 The Common Law of Environmental Protection

According to Fisher, Chapman and others, including O'Riordan, the rules that govern environmental protection are broadly of two kinds²². First, there are the statutory laws of the constitution, national and state legislatures, and local governments. Second, there is the common law, the body of judicial interpretation which create the precedents upon which future cases are judged. Crudely speaking, the distinction between the two lies in the locus of authority: statutory law is written by politicians while common law is composed by judges, although modern rulings are much influenced by reference to statutory legislation²³. In countries where all law is not codified in such a way as to specify in detail the rights and obligations of citizens, many such rights and obligations rely on custom for their existence. O'Riordan argues that the common law is enforced by the courts insofar as they can be satisfied that customs prevail at a particular point in time, hence common law is a dynamic and evolving mosaic, a body of rules dependent upon precedent and usually lagging behind societal changes, but striving constantly to reflect amended circumstances as well²⁴. Because judicial rulings have in the past tended to favour environmental defilement (resource exploitation) over amenity, the common law is geared more towards protecting the rights of developers than those who canvass regulation, conservation or quality of life. It follows that eco-activists attempting to utilise the common law face some prospect of disappointment; they may gradually shift judgments towards environmental protection, but are unlikely to gain immediate relief from resource attrition through the body of extant

22 Fisher D., *Environmental Law in Australia*, op. cit.; Chapman R.J.K., 'Environment Protection : The Law and Administration in Australia', paper presented at World Congress on Philosophy of Law and Social Philosophy, Sydney and Canberra, August 1977.

23 McKnight A., Marstrand P., and Sinclair T., (Eds.), *Environmental Pollution Control*, Allen and Unwin, London, 1974.

24 Chapman R.J.K., and Roebuck D., *The Court as Public Conscience: Conservation, Pollution and the Law*, Environmental Law Reform Group, University of Tasmania, Hobart, 1976.

common law. Traditionally, there are four provisions they may attempt to employ against environmental damage, namely trespass, negligence, strict liability and riparian rights²⁵. Two major remedies exist: damages and injunction, but the onus of proof lies on the private citizens seeking legal remedy²⁶. All of these approaches have particular strengths and weaknesses.

(a) Nuisance

The basic rule of common law is that private citizens may use their own property in such a way as not to injure others. This maxim recognises the mutual obligation of landowners to avoid excessive externalities (i.e. spillover effects on others), hence damages or injunction may be sought if it can be shown that substantial and unreasonable injury has been caused to the defendant. The nuisance doctrine is of limited usefulness in environmental litigation for three reasons: it fails if there is a long period of acceptance without complaint; if the litigant knowingly places himself or herself near an existing nuisance, being aware of its existence; or if the nuisance is in any way permitted by statutory law²⁷. For an individual to succeed in any action for private nuisance, the plaintiff must accept onus of proof and demonstrate injury to himself or to his property directly caused by the defendant. If he manages to satisfy the court on these matters he will not necessarily gain an injunction to prevent repetition, but he may receive monetary compensation for past injury caused²⁸. There are even greater obstacles

25 Ramsay J., *Industrial Pollution and the Law*, Environmental Law Reform Group, University of Tasmania, Hobart, 1972.

26 Landau N., and Rheingold P., *The Environmental Law Handbook*, Ballantine Books, New York, 1971, p. 27.

27 Eddy H.R., 'Locus Standi and Environmental Control : A Policy for Comparison', *University of British Columbia Law Review*, Vol. 6, 1971, pp. 193-214.

28 Juergensmeyer J., 'Common Law Remedies and Protection of the Environment', *University of British Columbia Law Review*, Vol. 6, 1971, pp. 215-236.

to litigation on grounds of public nuisance; principally the risk that costs or damages may be awarded if it can be shown that erroneous claims or vexatious delay occurred in the provision of goods, facilities or services²⁹. In short, 'nuisance' is a limited remedy only in extreme cases; it provides no redress where the public interest at large is affected and is unlikely to gain sympathetic consideration unless amenity can be shown to have some productive monetary value.

(b) Trespass

Trespass is said to occur when there is a physical invasion of private property, either by persons or polluting materials. It differs from nuisance in that it is an invasion of the right to exclusive possession of land (a direct interference) while nuisance is an invasion of the right to use and enjoy land (an indirect interference).³⁰ Usually trespass litigation is associated with nuisance and therefore subject to the same limitations, although to be successful the litigant must normally prove that the damage was caused unintentionally (as opposed to carelessly). Environmentalists have shown little interest in trespass litigation; it is patently complex and unlikely to be a productive tactic in inducing administration reform³¹.

(c) Negligence

The concept of negligence is basically that of carelessness; a theory of liability which assumes that a property owner or public official is totally responsible for all consequences of his actions.

29 *Ibid*, p. 219.

30 Reitze A., 'Private Remedies for Environmental Wrongs', *Suffolk University Law Review*, Vol. 5, 1971, pp. 779-819.

31 Juergensmeyer J., *op. cit.*, p. 221; Reitze A., *op. cit.*, p. 807.

In practice, this means that the defendant has failed to take all necessary precautions or failed to adhere to accepted standards of performance or rules of procedures³². Generally in negligence cases the burden of proof falls on the plaintiff to show undisputed connection between cause and effect and to produce clear evidence of carelessness, a difficult matter when there are no clear judicial guidelines to pinpoint 'reasonable performance'.

(d) Strict Liability

The strict liability concept is invoked when certain activities endanger the public, but are so unpredictable in occurrence or severity that there are no readily available safeguards. O'Riordan states that the principle is most cogently enunciated in a Canadian case, Rylands versus Fletcher:

' A person who for his own purposes brings onto his lands or collects or keeps there anything likely to do mischief if it escapes, must keep it in at his peril, and if he does not do so is prima facie answerable for all the damage which is the natural consequence of its escape.' ³³

The principle has also been applied in terms of product liability (e.g. motor vehicles), but the problem is to clearly demonstrate that inadequate care was exercised. The doctrine merely widens the legal possibility of bringing private action against a public nuisance.

(e) Riparian Rights

Riparian rights have a long tradition and relate to the allocation of water resources in terms of quality and quantity. Each person assigned riparian rights has a duty to ensure that

32 Kneese A., and Schultze C., *Pollution, Prices and Public Policy*, Brookings Institution, Washington, D.C., 1975.

33 Fraser J.A., 'The Role of the Common Law: Its Strengths and Weaknesses in Dealing with Environmental Problems', in Morley C., (Ed.), *Canada's Environment : The Law on Trial*, University of Manitoba Press, Winnipeg, 1974, pp. 112-132.

the stream is used in a reasonable manner according to the usages and customs of the community, the courts acting as arbiters of what is reasonable³⁴. The doctrine has useful environmental implications in some pollution cases, but it is limited to only one aspect of much broader resource management problems.

In summary, the use of common law in environmental litigation is fraught with difficulties. First, the law is based upon precedent and subsequent interpretations of precedent. A single ruling may influence judgments for a generation; alternatively an incautious judge can lead to an unmanageable variety of interpretations. Second, many environmental situations seem complex or unique, hence precedent may prove unduly restrictive, yet jurists would hesitate to open new horizons. Third, because previous precedents may be confusing, clear rulings do not prove easy, and clever lawyers will exploit 'reasonable doubt'. Fourth, much of the dispute hinges around whether 'injury' occurred and who is responsible for it, rather than the facts of the case. Fifth, common law remedies, if successfully pursued, do not always satisfy the plaintiff since courts may decide on ex-post damages rather than an injunction, thus failing to achieve cessation of nuisance. In these circumstances, it is debatable whether the common law can be gainfully exploited by environmentalists seeking reform of resource management practices. There is no evidence to confirm or deny whether conservationists even comprehend this point, but case material presented later in the Chapter indicates that eco-activists may not be well informed about the common law in Australia, nor do they appear to have comprehensively attempted to exploit its provisions, despite the limitations.

34 Juergensmeyer J., *op. cit.*, p. 227.

It would appear that the courts are justifiably hesitant about using private litigation to achieve broad public ends. The tendency is to avoid environmental litigation and hope that the legislature will frame statutes and policies to clarify resource management practices and ensure the preservation of amenity. In this aspiration they may well be disappointed, if experience so far is any indication³⁵. Nonetheless, even the foremost advocate of environmental law reform, Professor Sax, is aware of the limitations of judicial redress through common law:

' (The) courts alone cannot and will not do the job that is needed. But the courts can open the doors to a far more limber government process. The more leverage citizens have, the more responsive and responsible their officials and fellow citizens will be'.³⁶

6.2.3 Class Actions : Access and Standing

Differing markedly from the application of common law is the situation where a group of citizens act collectively to preserve a right or attempt to influence the manner of operation or end result of an activity which they believe to be either favourable or damaging to the public interest³⁷. In the usual class action suit, the court must first determine whether a group of individuals has a common interest (questions of law or fact, common to a class), and whether the intended class action is superior to other available means of litigation. The court must also decide whether the person in whose name the suit is being brought will do a fair and adequate job of protecting the interests of the class in general³⁸. Class actions over environmental issues have never been favourably received by the courts in Australia, as each member of the

35 The difficulty of achieving reform when jurisdiction over natural resources management is fragmented, has already been referred to. See Henning D., *Environmental Policy and Administration*, *op. cit.* Chapter 2.

36 Sax J.S., *Defending the Environment*, *op. cit.*, p. 115.

37 Alston P., 'Representative Class Actions in Environmental Litigation', *Melbourne University Law Review*, Vol. 9, 1973, pp. 307-317.

38 Adler V., 'The Viability of Class Actions in Environmental Litigation', *Ecology Law Quarterly*, Vol. 2, 1972, pp. 533-570.

class must still show 'special interest' separable from the interests of the public at large. In other words, the class must individually and specifically benefit from judicial redress, not automatically gain in some unspecified way as, for instance, they would do if successful litigation reduced the general level of air pollution³⁹.

In North America, class actions have tended to be limited to groups with proprietary interest, e.g. fishermen, hunters or Indians who by lease, purchase or treaty have longstanding rights to natural resources⁴⁰. But in the Storm King case (1966) a U.S. federal court granted the right to intervene to an 'aggrieved party', even though it had no clearly identified economic interest in the area⁴¹. This was a major doctrinal breakthrough since it permitted action by those who could prove that their aesthetic and psychic values, and not property rights, were at risk. Environmental lawyers tend to distinguish between the 'special concern' test (as defined in the Scenic Hudson case (1966)) and the 'special use' test in Mineral King (1972), although the latter remains judicially unclear⁴². It is apparent from these three important American lawsuits that the initiation and enactment of class actions is still at an early stage of evolutionary development.

In jurisdictions other than the United States, liberalisation of class actions has not progressed very far; indeed it is virtually non-existent in Australia⁴³. Conservatism by the courts is a root cause. If legal reforms aimed at permitting class actions are to occur in Australia, two separate concerns will have to be dealt with:

39 Lanteri A., 'The Legislative Control of Air and Water Pollution in Australia' in *Environmental Pollution*, Australian Conservation Foundation, Melbourne, 1970.

40 Fraser J.A., in Morley C., (Ed.), *Canada's Environment : The Law on Trial*, *op. cit.*, p. 121.

41 Alston P., *op. cit.*, pp. 307-317.

42 Sax J.S., 'Standing to Sue : A Critical Review of the Mineral King Decision' in *Natural Resources Journal*, Vol. 13, 1973, pp. 76-88.

43 Australian Law Reform Commission, *Access to the Courts II - Class Actions*, Discussion Paper No. 11, Canberra, June 1979.

- (a) Legal standing (locus standii): The status necessary to invoke court action to enforce rights, permit appeals or undertake criminal prosecution; and
- (b) Improved access: Legal costs and other obstacles must not be so high as to preclude plaintiffs from seeking access or redress.

Environmentalists have not demonstrated a capacity to deal with such issues as yet. Both matters are complex, but some salient aspects of these two concerns may be recounted here.

(a) Locus Standii : The Importance of Access

Access to the court is the ability of citizens to invoke the machinery of justice to force a person or instrumentality to do something, to obey the law or carry out a duty⁴⁴. Everybody has access on a personal (own behalf) basis where some private interest is involved, perhaps to recover a debt or damages, perhaps to restrain a threatened injury to his person or property, but where public interests are involved access is much more restricted. The Anglo-Australian tradition imposes 'standing' rules on plaintiffs; only those with the requisite standing interest being able to obtain relief⁴⁵. In a comparative review of English and American administrative law, Wade and Schwartz comment:

'... The problem of standing, or locus standii, is inherent in all legal systems... but in the United States, perhaps because of the constitutional basis which the subject has acquired in federal law, it can be discussed as a single topic. In Britain, it is a thing of shreds and patches, made up of various differing rules which apply to various different remedies and procedures. It is a typical product of the untidy system of remedies, each with its own technicality, which all British administrative lawyers would like to see reformed.' 46

44 Sax J.S., *Defending the Environment*, op. cit., Chapter 4.

45 Chapman R.J.K., and Roebuck D., *The Court as Public Conscience : Conservation, Pollution and the Law*, op. cit., pp. 42-44.

46 Wade H.W.R., and Schwartz B., *Legal Control of Government*, Oxford University Press, London, 1972, p. 291.

Untidy or not, the necessity to gain 'standing' is central to the pursuit of the environmental cause, as we shall discover later in this Chapter.

A major drawback of common law litigation and class actions as methods of shaping environmental policy is the very restricted definition of 'standing', or the right of a plaintiff to take his case before the courts. In practice, litigable rights apply only to an individual who has a proprietary (i.e. pecuniary) interest and who can prove that damage to his or her property or his or her person is both peculiar to that individual and unreasonable⁴⁷. This means (i) if the individual has no particular and personal property rights, and/or (ii) he or she cannot prove special injury which is worse for them than for others, then he or she may not be heard by the court. This rather narrow interpretation of legal standing creates difficulties for environmentalists in dealing with issues of public nuisance or loss of amenity, where large numbers of people may be equally aggrieved, but none has any private proprietary interest in the form of negative spillovers damaging the commons⁴⁸. Normally in such situations only the Attorney-General has standing to act on behalf of the community at large, through a so-called 'relator action', discussed in Section 6.4 of this Chapter⁴⁹. Naturally, as a politician, he is usually reluctant to prosecute if his own party in government will be affected and unless overwhelming proof appears to exist.

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- 47 Taylor D., 'Standing to bring Suits on Environmental Issues' in Commonwealth of Australia, Attorney-General's Department, Seminar on *Environmental Law :The Australian Government's Role*, December 1974, Australian Government Publishing Service, Canberra, 1975, pp.46-62.
- 48 Chapman R.J.K., and Roebuck D., *op. cit.*, pp. 48-52.
- 49 Chapman R.J.K., and Roebuck D., *op. cit.*, pp. 52-53.

An example of the technical injustice created by restrictive interpretation is provided by the Canadian case where three hundred and fifty fishermen lost their livelihood after toxic wastes destroyed an inshore fishery⁵⁰. The Supreme Court of Newfoundland (Hickey versus Electric Reduction Company 1970) ruled that the fishermen had no proprietary right to the fish which were a common property resource. Other cases have failed simply because of the lapse of time to gain standing, by which time de facto permission to proceed is assumed even though injurious action has occurred⁵¹. A third example arises from the U.S. Mineral King decision (1972) where the Sierra Club sought to prevent Walt Disney Enterprises Inc., from developing a large ski resort on national forest land. The Supreme Court ruled that the Sierra Club could not act for the public at large, but the court could authorise review if the Club sought to sue on behalf of one or more of its members⁵².

Sax was extremely critical of this judgment, claiming that it restricted the right of public interest organisations to vindicate the anxieties of the public at large about possible ecological attrition. Nor, he claimed, did it provide any opportunity for the citizen plaintiff to assert any legal rights over the protection of such areas, even though they may enjoy the option value of knowing that such natural assets exist and may be used (visited) at any time, a significant aspect of the benefits of conservation⁵³. As is often the case, the matter becomes political. As Sax points

50 O'Riordan T., *op. cit.*, pp. 272-273.

51 *Ibid*, p. 272.

52 *Ibid*, p. 273.

53 Sax J.S., *op. cit.*, p. 73.

out, environmental issues will be litigable or not depending on the intensity of fear of retribution among the victims, or the persuasiveness of the public interest group in obtaining user-victims as plaintiffs, or on the cohesiveness of the conservation group acting as collective users. It is quite probable that judicial review will remain contingent not so much on the merits of the case as on the nature of the 'interest' or 'front persons' put up by the environmental group to justify standing⁵⁴.

(b) The Difficulty of Achieving Standing

Insofar as the technicalities of 'standing to sue' are concerned, there are several matters to be considered by eco-activists contemplating taking action:

- (i) Standing is the legal entitlement of a person or group to invoke the jurisdiction of the court in a particular case; it turns upon the nature of the interest involved. Capacity is the ability to invoke the jurisdiction of the court in any case, it depends upon the personal characteristics of the plaintiff. Standing therefore involves an ability to institute proceedings; conduct to the manner in which the action proceeds. 55
- (ii) There is a vital distinction between standing and justiciability. Standing involves entitlement of a particular person to invoke jurisdiction in a specific case involving rights or obligations. Someone, even if only the attorney-general on behalf of the public at large, will have standing and in theory be capable of taking proceedings. The standing 'problem' is really whether the actual plaintiff is a qualified plaintiff. Justiciability, on the other hand, depends upon the nature of the suit, not the identity of the plaintiff 56. For example, if the suit raises hypothetical or non-legal issues, it will fail because of its nature and irrespective of the plaintiff.
- (iii) Federal judicial power in the High Court of Australia extends only to the 'determination of matters' i.e. judgment on specific contextual and particular evidence; it deliberately excludes all hypothetical questions and advisory opinions 57. It is at that point that the distinction between 'standing' and 'justiciability' becomes critical. Provided the action

54 *Ibid*, p. 73.

55 Chapman R.J.K., and Roebuck D., *op. cit.*, pp.54-56; also Chapman R.J.K., 'Environment Protection : The Law and Administration in Australia' *op. cit.*, pp. 20-22.

56 *Ibid*, pp. 21-23; also Cranston R., 'The Law, the Environment and the Individual', *University of Queensland Law Journal*, Vol.7, 1972, pp.401-417.

57 Fisher D.E., 'An Overview of Environmental Law in Australia', *Earth Law Journal*, Vol. 3, 1977, pp. 47-67.

raises issues of legal rights or duties it is determinable, a matter within the federal judicial power.

(c) The Floodgates Argument

A major reason in support of limiting standing rights is the fear of a spate of actions brought by vexatious litigants who might unduly overload the courts without substantial cause. As the Australian Law Reform Commission notes, no argument is easier put but more difficult to rebut⁵⁸. Proponents of change who doubt the floodgates argument necessarily lack any means of proof as no trial of open standing is likely to be granted. Nonetheless, the difficulty cannot be brushed aside, Australian courts tend to be fully extended with existing cases and any substantial increase in workload will exacerbate listing problems. Yet justice depends on being heard as and when required and a heavy workload should not be used as an excuse⁵⁹. Mechanisms must be found for dealing with legitimate grievances. What then is the available evidence about the floodgates argument?

Surveying United States experience to 1973 (the period immediately following the implementation of NEPA in 1969), Scott argued that liberalised standing rules had not caused any significant increase in the number of cases brought, especially as the high legal cost was a powerful deterrent unless important issues and genuine personal 'interest' was involved⁶⁰. Scott's view is confirmed by experience in the State of Michigan where virtually all cases involve serious and socially important issues, but the total number being well within the judicial competence of the Michigan courts. Equivalent evidence is available from Canada;

58 Australian Law Reform Commission, *Access to the Courts I - Standing : Public Interest Suits*, Discussion Paper No. 4, Canberra, 1977.

59 Fisher D., *Environmental Law in Australia*, op. cit., Chapter 4.

60 Scott D., *Pollution and the Electric Power Industry : Its Control and Costs*, Saxon House, Farnborough, 1974.

furthermore, the Australian Law Reform Commission notes by analogy that the availability of appeal provisions against town planning decisions has not induced a spate of litigation⁶¹. Critics may infer that if there is no significant increase in standing cases, there is no real need for improved environmental rights. This argument necessitates two rejoinders. One case may have a dramatic effect on the behaviour of a hundred others; this is the whole purpose of a legal test case. Secondly, the mere exposure to possible action is likely to affect the behaviour of persons who presently consider themselves immune to legal control.

The standing issue is correctly perceived as crucial by environmentalists, who strongly believe that citizens should be able to bypass poorly equipped political and administrative institutions in order to protect environmental quality⁶². They recognise that the law reflects prevailing political and social mores, but at least in the United States, have quite unashamedly tested the conventional wisdom by selectively using innovative doctrines of standing, unearthing a number of old doctrines and giving birth to new notions, such as environmental rights and fresh interpretations of the public interest described later in this Chapter. This struggle is now well recorded in the literature⁶³. In Australia, few cases have arisen as yet; we need to know the reasons for this and what the implications are.

O'Riordan and others view increased access to the courts as the next stage in an historical trend. Liberal nations of the eighteenth and nineteenth centuries regarded access to the courts as virtually a

61 Sax J.S., *Defending the Environment*, *op. cit.*, pp. 158-174.

62 Note frequent discussion of this issue in newsletters and journals published by environmental groups, e.g. Newsletter of the Tasmanian Conservation Trust Inc.

63 Dales J., *Pollution, Property and Prices*, University of Toronto Press, Toronto, 1972; Bigham D., *The Law and Administration Relating to the Environment*, Oyez, London, 1973; Council on Environmental Quality, *Environmental Quality* (Annual Reports), Government Printing Office, Washington D.C.; Culhane P., 'Natural Resources Policy : Procedural Change and Substantive Environmentalism' in Lowi T., and Stone A., (Eds), *Nationalizing Government : Public Policies in America*, Sage Publications, Beverley Hills, Calif. 1978, pp. 201-262.

given or 'natural' right, essential to individual freedom and almost pre-dating the state itself. Such notions do not easily survive in twentieth century democracy, where individuals may lack property rights and need to be protected from powerful corporate and bureaucratic interests⁶⁴. Legal aid was the first manifestation of this view, now extended to consumer protection and notions of the public interest. Reforms along these lines have been slow to take root in the Australian legal system⁶⁵.

In summary, access to the courts and legal standing to represent environmental interest remains the core problem for conservationists. So far the courts have shown an inordinate reluctance to grant the widening of access, even though powerful arguments may be adduced in favour of such action. The floodgates argument does not appear to have much validity if overseas experience is any indication, hence conservatism rather than reasoned argument is the real cause of the current impasse. Pecuniary interest rather than individual rights is the prevailing criterion insofar as standing is concerned, hence reform will not easily be achieved.

6.2.4 Other Suggested Doctrines

(a) The Doctrine of Public Trust

Sax has persuasively argued that federal and state governments have a responsibility to ensure that certain common property resources such as air, water, mountains and lakes are held in trust for the free and unimpeded use of the general public, both current and future generations⁶⁶. Dating from ancient Roman law pertaining to natural objects, the theory of public trust rests upon the following related principles:

64 Yannacone V. et. al., *Environmental Rights and Remedies*, Vol. 1., *op. cit.*

65 Harkins J., 'Legal Aid for Environmental Suits', in *Environmental Law : The Australian Government's Role*, *op. cit.*, pp. 66-72.

66 Sax J.S., *op. cit.*, pp. 158-174.

- (i) Certain resources such as the air, watercourses and seashore, are of such general significance that it would be unwise to transfer them entirely to private ownership;
- (ii) Their benefits derive from a type of 'natural amenity' quality which belongs to everybody; and
- (iii) In principle, the duty of governments is to promote the interests of the general public, rather than redistribute goods from the public jurisdiction to private interests. Should the government not act to protect such resources as a trustee, a court action should be initiated by citizens to correct the situation. 67

Because the courts now recognise that some sort of balance must be struck between responsible private use of natural resources and the protection of social well-being, they tend to rule that publicly owned resources cannot be appropriated by private interests without proper compensation⁶⁸. Yet the onus of proof still lies with individual citizens rather than developers when issues of environmental quality or loss of amenity arise⁶⁹. Only in restricted instances do the courts examine the possible implications of proposed action and specify compensation for any environmental attrition likely to occur. Town planning development control is a field where this doctrine now applies, but eco-activists have been slow to perceive that the practice could be extended⁷⁰.

Sax records the manner in which Wisconsin courts have established a number of procedures and guidelines in this regard, while Grad comments on the findings of the Massachusetts courts that public property already in use for one purpose cannot be converted for other public use without proper legislative authorisation⁷¹. However, the public trust doctrine has not yet been fully tested, especially in Australia, since

67 Reitze A., *op. cit.*, p. 182.

68 Hardin G., and Baden J., (Eds.), *Managing the Commons*, *op. cit.*, pp. 229-240; Edmunds S., and Letey J., *Environmental Administration*, *op. cit.* pp. 58-71.

69 Garbesi G., Comment during Australian Broadcasting Commission 'Insight' programme, No. 522, 'Environmental Law in Australia', 23 February 1975.

70 Wilcox M., 'Planning Controls and Departmental-Local Government Responsibilities' in *Conservation and Mining*, Australian Conservation Foundation, Melbourne, 1972, pp. 29-38.

71 Sax J.S., *op. cit.*, pp. 167-169; Grad F., *op. cit.*, pp. 126-127.

there are no proper guidelines for the courts to determine precisely how much of what 'trusts' is being destroyed in any particular conservation case. The major obstacle in the Australian jurisdiction would be the shield of the Crown and ministerial discretion, since the holders of particular portfolios are supposed to be the guardians and distributors of public lands, taking due account of common property values.

(b) Citizen Environmental Rights

The logical extension of the public trust doctrine is a charter of the rights of citizens to a clean and healthy environment. Although conservationists have sometimes pressed for such a bill of environmental rights, they have never pursued the cause with much enthusiasm or diligence⁷². In theory, citizen environmental rights would enable individuals to prosecute in the event of any injury to wellbeing, whether or not the person's situation was unique or shared with others. The legal background to this issue lies in the administrative procedure acts in North America, the United Kingdom and Australia. The relevant United States legislation provides that :

' A person suffering legal wrong because of agency action or adversely affected or aggrieved by agency action within the meaning of the relevant statute, is entitled to judicial review thereof.' ⁷³

Prima facie, this grants an individual citizen the right of redress for any government misdemeanour that is shown to be 'arbitrary, capricious or contrary to the law'; but in practice, interpretations have produced widely inconsistent results because 'injury in fact' has to be proven.

72 Perhaps attention to immediate issues and suspicion about the enforceability of 'rights' has been a deterrent.

73 Quoted by O'Riordan T., *Environmentalism, op. cit.*, p. 277. Note associated comment on pp. 277-278.

To overcome this difficulty, Sax drew up a Citizens Environmental Charter which was adopted by the State of Michigan in its Environmental Protection Act of 1970⁷⁴.

The Michigan Act states that where the plaintiff presents a reasonable case, it is then up to the defendant to show that there was not any feasible or prudent alternative to his or her activity; that it was consistent with the general requirements for protecting the public welfare, and that its social and economic benefits outweighed its social, economic and environmental costs. Sax claims that the Act works quickly and effectively because most cases are settled out of court⁷⁵. One reason for the unusually quick action is the threat of preliminary injunctions on large and costly projects. The Act has also had the salutary effect of persuading public agencies to enforce regulations and permitting some action in politically sensitive resource issues, since private suits relieve the agencies of embarrassment in relation to particular clients. As a result, agencies have been able to exchange information with the community to publicise resource issues, alert the legislature and improve their own performance. Sax's claims are open to doubt, however, in relation to potentially high damages if it can be shown that vexatious litigation delayed important projects. It must also be doubted whether legislation similar to the Michigan citizens charter could be successfully enacted and implemented in British or Australian jurisdictions.

74 Sax J.S., *Defending the Environment*, *op. cit.*, pp. 247-252; Sax J.S., and Connor J., 'Michigan's Environmental Protection Act of 1970: A Progress Report', *Michigan Law Review*, Vol. 70, 1972, pp. 1003-1021.

75 Sax J.S., 'Environmental Law : The U.S. Experience' in Morley C., (Ed.), *Canada's Environment : The Law on Trial*, *op. cit.*, pp. 181-188.

O'Riordan states that Crampton and Boyer, as well as Grad, are dubious about the merits of environmental charters, believing it preferable to rely upon executive agencies rather than the courts. These analysts consider that regulatory authorities can deliberate as well as act, that they are more likely to weigh technical evidence than points of law, and can use compromise and discretion rather than rely upon absolute verdicts⁷⁶. Grad fears that in their zest for legal reform, environmental lawyers and conservationists may reinstate messy judicial meddling under substantive due-process motions that would result in more, not less, administrative disruption⁷⁷. Sax attempts to counter such arguments by commenting that properly drafted legislation need not impair constitutional responsibilities, but should improve the performance of agencies, first by opening up their activities to judicial review and citizen participation, and second by strengthening their political resolve to take proper action when required⁷⁸. In summary, the case for environmental rights is by no means proven; the concept appears admirable in principle but doubts remain about its prospective effectiveness. Environmentalists have contributed very little to the debate, relying upon lawyers to argue the case, for and against.

(c) 'Natural' (Biotic) Rights

Leopold, Stone and others concerned with environmental ethics, have argued that environmental rights should be extended to natural (physical) objects such as forests, lakes, peaks and the like, with advocacy citizens speaking on behalf of Nature⁷⁹. United States

76 Crampton R., and Boyer B., 'Citizen Suits in the Environmental Field: Peril or Promise?', *Ecology Law Quarterly*, Vol.2, 1972, pp. 407-436; Grad F., 'Review of Sax - Defending the Environment : A Strategy for Citizen Action', *Natural Resources Journal*, Vol.12, 1972, pp.125-131.

77 Grad F., *op. cit.*, pp. 129-130.

78 Sax J.S., 'Environmental Law - The U.S. Experience' in Morley C.(Ed.), *Canada's Environment : The Law on Trial*, *op. cit.*, pp. 184-185.

79 Leopold A., *A Sand County Almanac*, *op. cit.*, Stone J., *Should Trees Have Standing? Towards Legal Rights for Natural Objects*, W. Kaufman, Los Altos, California, 1974.

Supreme Court Justice Douglas, in his dissenting opinion in the Mineral King case, argued that citizens might act as advocates for amenity values; while Stone et. al. have developed a 'guardianship' theory whereby citizens would sue on behalf of the preservation of rare and endangered species or natural objects⁸⁰. O'Riordan dismisses this proposal as unnecessary, arguing that if individual environmental rights were sufficiently developed, it would not be necessary to extend legal actions to natural resources themselves. O'Riordan appears to have missed the key point of the need for close links between man and his environment; presumably if respect for forests, waterways and other natural resources is to be engendered in people preoccupied with exploitative perspectives, intervention on behalf of natural objects may need to be promulgated⁸¹. This is a judgment which only society itself can reach, but the issue does not appear to have surfaced in Australia as yet⁸².

(d) The Qui Tam Initiative

O'Riordan notes that the ancient doctrine of sovereign immunity ('the king can do no wrong') has gradually been tempered by statutes which provide judicial standing to regulators whose evidence leads to the successful prosecution and fining of law violators, as well as to citizen-initiated legal action if the government fails to prosecute offenders. Attempts were made to utilise such mechanisms in the United States in the early 1970s to prevent pollution of waterways, but two important court rulings

80 Sax J.S., 'Standing to Sue : A Critical Review of the Mineral King Decision', *Natural Resources Journal*, *op. cit.*, pp. 76-88.

81 Compare the land ethic of some cultures (e.g. Australian Aborigines, and North American Indians)

82 Some environmental activism in Australia is virtually an attempt to act on behalf of Nature, i.e. defence of forest trees from bulldozers and chainsaws in the Terania Creek area of New South Wales (1979-80).

(Kalur versus Resor 1971, and United States versus Pennsylvania Industrial Chemical Corporation 1972) effectively quashed the qui tam initiatives by concluding that no discharges were permitted until federal permits were granted, and that in any case environmental impact statements were required for all permit applications⁸³. Experience suggests that public environmental agencies often water down their environmental impact statement criteria in the face of industrial lobbying or to accommodate to pressures from a wide variety of interests, hence reliance on environmental assessment is perhaps inferior to full implementation of the qui tam doctrine⁸⁴. Because qui tam writs have never been judicially upheld, even in the United States, it is difficult to evaluate how effective they could be in citizen scrutiny of agency performance. As previously noted, the shield of the Crown and ministerial discretion virtually precludes the enforcement of departmental responsibilities and regulatory functions in Australia⁸⁵.

In summary, despite a number of attempts at innovative doctrines, environmental law still largely depends upon traditional practice, such as common law remedies or class actions, if such can be invoked. Many of the innovative doctrines envisaged in the United States do not appear viable in Australian courts, although admittedly none has yet been tested.

6.3 SUMMARY AND ASSESSMENT OF PART A OF THE CHAPTER

The foregoing analysis has conclusively demonstrated that a potentially wide spectrum of legal tactics is available in environmental litigation, but in practice access to the Australian courts is largely

83 O'Riordan T., *Environmentalism, op. cit.*, pp. 255-267.

84 For discussion of innocuous environmental impact statements see Mosley J.G., 'The Assessment Process as it works within State/Provincial and Federal Governments'. Paper presented at a Conference on the Costs of Environmental Protection, Canberra, March 1981.

85 Benjafield D., and Whitmore H., *Principles of Australian Administrative Law, op. cit.*, pp. 1-30.

restricted to those with personal pecuniary interests. Even if access to the courts is ultimately attained, further legal obstacles exist to achieving redress of grievances or prevention of environmental attrition. The courts may award monetary compensation for loss of amenity, but are far more wary about prohibition, or orders aimed at preventing loss of environmental quality.

It is necessary to recognise that the battle for citizen environmental rights is a political issue as much as a judicial or administrative question. Disputation centres around well-worn societal issues, such as the degree of trust in the political process, the capacity of public servants to safeguard the public interest and the appropriate role for citizens in democratic decision-making. As political and social attitudes to these fundamental issues evolve over time, the scope and interpretation of locus standi may yet take on new and distinctive forms.

Discussion of general principles and overseas experience provides some guidance, but we must now turn to a more detailed assessment of the Australian context. Part B of the Chapter summarises some Australian case examples, while Part C deals with one particular issue, the Precipitous Bluff judgment, which may have important implications for the future.

PART B : THE CURRENT SITUATION IN AUSTRALIA

6.4 AUSTRALIAN PRACTICE : SOME GENERAL OBSERVATIONS

Chapman and Jones have questioned whether Australian environmental management involves a basic philosophy of mere regulation of exploitative activities, or whether it embraces a total ecosystems approach to resource conservation and development⁸⁶. In general, it would appear that a

⁸⁶ Chapman R.J.K. and Jones R., 'Environmental Control or Environmental Protection : The Need for a Policy Ministry Designed to Promote the Environment Principle', *op. cit.*, pp. 29-31.

limited orientation prevails; far from embracing environmental principles in general policy formation, the tendency is to license or permit exploitative activities with intervention only to restrict prospective damage or to impose curative conditions where environmental attrition is detected. Chapman and Jones contrast this remedial and piecemeal regulatory approach enforced by environmental protection authorities, with a broader philosophy which should prevail across the entire field of environmental management, aimed at ensuring the integrity and sustainability of total ecosystems. The latter philosophy would entail increased attention to conservation programmes and permit enlarged public debate prior to the approval of development options. A corollary would be improved access to the courts as a means of review and appeal.

Chapman argues that the prevailing tendency is to assume that a curative approach suffices (i.e. 'let the polluter pay'), but such an approach fails on two grounds : lack of enforcement, and environmental impacts which simply cannot be corrected by subsequent action⁸⁷. Chapman is also extremely critical of the tendency of the courts to recognise only private property rights, while simultaneously placing an onerous burden on private citizens to show that damage has been caused and that they are personally affected⁸⁸. Even so, the damages awarded may be minimal and achieved only after the plaintiff has risked costs and damages in bringing the matter before the courts. Chapman believes that 'standing' for class actions and public interest suits needs to be improved in Australia, but the prospects are limited at present. He cites case evidence to support his contention⁸⁹.

87 Chapman R.J.K., 'Environment Protection : The Law and Administration in Australia, *op. cit.*, pp. 26-27.

88 *Ibid*, p. 17.

89 Chapman R.J.K., and Roebuck D., *The Court as Public Conscience : Conservation, Pollution and the Law*, *op. cit.*, pp. 36-52.

6.5 SOME LESSONS OF EXPERIENCE

(a) Excessive Protection of Private Property

Chapman argues that many existing statutes provide undue protection to private property relative to public needs. This goes beyond the reluctance of parliament to interfere with the common law right of the land-owner to do what he wishes with his land; it involves the custom of court judgments to give excessive weight to property rights. One of the better known cases is Wagon Mound No. 2 (1967)⁹⁰. The 'Wagon Mound' was a vessel chartered by the Miller Steamship Company, which illegally discharged a quantity of oil into Sydney Harbour. The discharged oil accumulated around two British vessels and was accidentally ignited by a third party carrying out welding on the adjoining wharf. The key argument centered on what test of causation to apply. A 'foreseeability' test was applied, protecting the originators of the damage on the grounds that they were unaware of the potential consequences of their initial misdemeanour⁹¹. In other words, the court protected a private action even though it caused a substantial public mischief.

The principle is demonstrated perhaps more clearly in Southport Corporation versus Esso Petroleum Co. Ltd. (1954) where Walsh J. quoted the words of Denning L.J. with seeming approval:

' In order to support an action on a case for private nuisance, the defendant must have used his land in such a way as injuriously to affect the enjoyment of the plaintiff's land.' 92

90 *Ibid*, p. 30.

91 For discussion of rights and obligations in common law see Chapman R.J.K., 'Environment Protection : The Law and Administration in Australia', *op. cit.*, pp. 12-13.

92 [1954] 2 Q.B., 182.

In matters of air or water pollution this may be almost impossible to prove; moreover the court usually requires the plaintiff to show particular personal damage beyond that suffered by the general public. It is very debatable whether environmentalists recognise the implications of legal subtleties of this kind; their own journals and literature tend to display rather simplistic notions about legal concepts and processes⁹³.

(b) Legislation in Action

Although most Australian states have now established environmental protection authorities and enacted statutes aimed at environmental quality, many of the regulations are weak or inadequately enforced, while court actions have been too few in number to establish worthwhile precedent or interpretation. Chapman cites two cases which illustrate the difficulties within the Australian jurisdiction:

(i) Sunbeam Corporation Limited

Section 16 of the New South Wales Clean Waters Act provides that ' a person shall not cause any waters to be polluted.'⁹⁴ Chemicals escaped from a pipeline owned by the Sunbeam Corporation Ltd., and having passed along a drain situated on its land, reached the Cooks River. The Sunbeam Corporation was charged by summons dated 24 February 1974, with having caused Cooks River to be polluted by means of a discharge of potassium cyanide; the defendants admitted the discharge

93 The assumption tends to be that simple presentation of conservation evidence will suffice. There is little appreciation of court proceedings or the need for *locus standi*.

94 *Majury v. Sunbeam Corporation Ltd.* [1974].NSW Law Reports 659.

but claimed that the pollution had escaped without any intervention by them. The defence claimed that to justify a conviction the prosecution had to prove that the defendants placed in or on the water, matter which caused the pollution. The judge found that the Sunbeam Corporation had caused the pollution, despite care, and that the pollution was not due to a third party or act of God⁹⁵. In effect, the judgment indicated the need for New South Wales residents to take due care not to cause inadvertent pollution.

(ii) Tucker versus Fraser

A similar case from Queensland illustrates how local statutory provisions can give rise to quite different arguments and interpretations. The Pollution of Waters by Oil Act 1973 provides that '... if a discharge of oil into any waters occurs as a result of a discharge of oil from a ship, then subject to the provisions of the Act, both the owner and the Master of the ship commit an offence against the Act.'⁹⁶

It is a satisfactory defence to such a transgression under Section 9 to prove that the discharge was inadvertent or caused by leakage which could not have been foreseen or avoided. In Tucker versus Fraser, on appeal, the case was dismissed on such grounds, and an interpretative distinction was made between 'leakage' and 'discharge'.⁹⁷

95 Chapman R.J.K., 'Environment Protection : The Law and Administration in Australia', *op. cit.*, pp. 33-34. The need for care to prevent inadvertent nuisance is also discussed in O'Riordan T., *Environmentalism*, *op. cit.*, pp. 269-270.

96 For discussion of environmental protection legislation in Queensland, as distinct from pollution prevention legislation, see Section 7.5.3 of the thesis.

97 *Tucker v. Fraser ; ex parte Tucker* [1974] Qd. R. 147.

The differences in wording between the New South Wales and Queensland cases indicates the need to establish consistency across State jurisdictions and emphasises some of the problems created by the use of technical phrases. The cases also expose the problems of citizens seeking to take action against identified offenders. Requiring individuals or corporations to exercise environmental care is one thing, permitting environmentalists to enforce due care is another. Apparently little can be done until pollution actually occurs, then remedial measures and sanctions can be brought into play, but may not rectify the damage completely. Even so, it is not so much a matter of knowledge and willingness to act, as the psychological commitment required to pursue complex technical and legal issues through the courts for a general cause which may be misconstrued or ignored by many people within the community⁹⁸.

(c) Private Nuisance (non-natural use of land)

Non-natural use of land as determined in the case of Rylands versus Fletcher (1886) is a cause of action in private nuisance if the situation meets the following rule, specified earlier in this Chapter:

' The person who for his own purposes brings onto his lands and collects or keeps there anything likely to do mischief if it escapes, must keep it in at his peril; and, if he does not do so, is prima facie answerable for all the damage which is the natural consequence of its escape.' ⁹⁹

98 Reformers do not always receive accolades, but many important legal decisions have been achieved simply because of the persistence of plaintiffs in the courts.

99 O'Riordan T., *op. cit.*, p. 269; Juergensmeyer J., 'Common Law Remedies and Protection of the Environment', *op. cit.*, pp. 215-236.

The rule has been applied to a wide variety of objects, including water, electricity, gas, explosives and more recently extended to oil, harmful fumes and acid smuts.

The difficulty of general application, according to Chapman, lies in the lack of clarity or principle in the way the courts have used the rule. Environmentalists therefore face considerable risk in attempting to undertake actions against private nuisance. For example, the following uses have been held to be non-natural: accumulation of gas in large amounts or under high pressure; drawing off water from a mill, planting poisonous trees and the use of a blowlamp to thaw frozen pipes near lagging. By contrast, the following have been ruled to be 'natural' uses: working of mines, storing of foil, domestic fires and supply and use of domestic gas, water and electricity. The vagaries of court action are best illustrated by reference to the so-called 'Metal Foil' case (British Celanese as plaintiffs)¹⁰⁰. British Celanese suffered injury to machinery and goods through metal foil blowing onto the busbars of a nearby electrical sub-station, causing power failure to the plaintiff's factory. The court held that the storage of foil did not in itself create the special risks covered by Rylands versus Fletcher, hence the action failed. Consider how much more difficult it would be for conservationists to claim that the non-natural use of land had caused damage to adjacent common property resources such as a public recreation area.

100 Chapman R.J.K., 'Environment Protection : The Law and Administration in Australia', *op. cit.*, p. 13; see also *British Celanese versus A.H. Hunt (Capacitators) Ltd.*, 1969.

(d) Public Nuisance : The Black Mountain Case

Both Hancock and Chapman have provided independent assessments of the attempt by Canberra citizens to prevent the erection of a telecommunications and observation tower on Black Mountain in the federal capital (Australian Capital Territory) in the early 1970s¹⁰¹. Hancock has produced a very detailed account, so there is little need to recount all the details here, but some legal aspects should be noted. In the words of Smithers J. the case judge in the ACT Supreme Court:

' The contest is between those who see the tower as a necessary public work which will be an attractive addition to the capital (Canberra) and those who see it as a menace to the surrounding bushland, a gross distortion of the skyline of the city and incompatible visually and otherwise with the plan and conception of the National Capital hitherto accepted and implemented.' 102

A conflict had erupted between the National Capital Development Commission (NCDC) and the Postmaster-General's Department (PMG) over the siting of the tower and the federal Government had intervened, contending that they were the final arbiters of what was appropriate. A Minute of the Executive Council dated 19 September 1973 authorised the Minister for Works to proceed, but the intervention of citizens opposed to the tower forced the court to consider whether any injunction intended to restrain the Government would be effective. A further major consideration before the court was whether the plaintiffs, citizens who used the public land on which the tower would be sited, should be granted *locus standi*, i.e. recognition by the courts. Such citizens lacked property

101 Chapman R.J.K. and Roebuck D., *op. cit.*, pp. 38-40 re *Kent and Others v. Minister of State for Works and Others* (1973), 2 ACT R. 2. For more detailed exposition see Hancock N., *The Battle of Black Mountain*, (monograph), Department of Economic History, Australian National University, Canberra, 1974.

102 Chapman R.J.K., and Roebuck D., *op. cit.*, p. 38.

rights but had a licence to use, nonetheless the judge was satisfied that it enabled the plaintiffs to claim. The central difficulty was that they had to show construction of the tower would interfere with enjoyment of the park to such a degree as to constitute public nuisance¹⁰³.

In the event the claim failed, but it is not so much the failure itself, as the wording of the judgment which reveals an entrenched adherence to property rights and a lack of focus on public rights. Smithers J. summarised the situation thus:

'... In these days one is familiar with the conception of the protection of amenity of particular areas by official planning schemes, and the preservation of the landscape is a recognised factor in such schemes. And in this case the preservation of this skyline is a factor for the attention of NCDC. It is before such a tribunal that the conflicting interests concerned with the amenity of the area are to be discussed and dealt with. But I do not find in the common law, any recognition of any right in anyone to control what another may build upon his land, by reference to interference with his line of sight or beauty or lack of it in what is built, or its incompatibility with the historical quality or character of the neighbourhood. . . . it is going much too far to suggest that it might be a crime to construct a building which offends even a large majority of citizens in some locality, by reason that it is considered to break the skyline, or be too large, too dominating, incompatible with the local traditions or the hitherto accepted principles of local planning in the locality.' 104

Chapman sees this part of the judgment as of vital concern to those who might wish to engage in public nuisance litigation for amenity or pollution prevention reasons. The reference to property rights is clear and unmistakeable. As Smithers J. stated elsewhere '... It's lawful to erect what one pleases on one's land.' 105

103 *Ibid*, p. 39.

104 Hancock N., *The Battle of Black Mountain*, *op. cit.*, pp. 36-42.

105 Quoted in Chapman R.J.K. and Roebuck D., *op. cit.*, p. 40.

The plaintiffs sought relief on additional grounds such as injury to flora and fauna and the notion of public trust (agency responsibility for maintenance of environmental quality) but both these approaches were rejected. The only successful claim was that provisions of the National Capital Development Act had not been met, but this did not create any general rubric under which public nuisance might be proven, moreover it was a particular instance not providing any precedent for future cases of this kind¹⁰⁶. In rendering judgment, the court showed its reliance on technicalities rather than on a consideration of broader issues such as amenity, which dominate the minds of conservationists. The probability that common law rules and provisions might become useful to environmental litigants therefore seems remote. Deciding issues in disputes between unspecified plaintiffs, about non-assessible injuries to persons or properties arising out of uncertain causality, is not a situation which courts can currently accommodate. New causes of action, new procedures and new remedies are seemingly required before courts can truly provide appropriate protection to the environment. The important question for eco-activists and environmental lawyers alike is how the initial breakthrough may be achieved.

(e) Public Nuisance Revisited : The Beaudesert Alternative

Chapman also draws attention to the Beaudesert decision in Queensland (1966) which apparently is another prospective mechanism worthy of investigation¹⁰⁷. Drawing upon an illuminating address by Garbesi, Chapman summarises the central principle as follows:

106 Virtually every case of purported public nuisance must be proven on specific grounds. Precedent exists, but it may be difficult to invoke in contextual circumstances.

107 *Beaudesert Shire Council versus Smith* [1966] 40 ALJR, 211.

' a person who suffers harm or loss as the inevitable consequence of the unlawful intention and positive acts of another is entitled to recover damages from that other.' 108

The intricacies of the Beaudesert riparian case need not concern us greatly; the case revolved around a situation in which a council unlawfully took gravel from a river, affecting water quality downstream¹⁰⁹. Some criticism of the consequent High Court decision arose as a result of its ruling that the plaintiff whose water quality was affected should receive compensation, but while the judgment may have been based upon dubious precedent, it did at least recognise existing rights and take some account of concepts of natural justice.

Although Garbesi is optimistic that the Beaudesert decision would permit conservationists to sue for damages if loss of environmental quality occurred, he ignored the fact that the case was only successful in a situation where the action causing damage was itself unlawful¹¹⁰. In any event, the Beaudesert decision could be applied only if locus standi was achieved. As Chapman notes, such litigation fails to prevent attrition, since claims can only be entertained after discernible loss or injury has occurred and is identified. The real need is for provisions which restrict or preclude potential loss of environmental quality.

(f) The Prerogative Writs

Professor H.W.R. Wade has commented that environmentalists have singularly failed to explore and exploit the wide prospects of use of traditional prerogative writs in conservation cases¹¹¹.

108 Chapman R.J.K. and Roebuck D., *op. cit.*, p. 42.

109 Dvorkin G., and Harari A., 'The Beaudesert Decision : Raising the Ghost of the Action of the Case', *Australian Law Journal*, Vol. 40, May 1966-April 1967, p. 298, *et. seq.*

110 Garbesi G., 'Main Features, Gaps and Recent Advances in Australian Environmental Law', in *Proceedings of the First National Conservation Study Conference*, Australian Conservation Foundation, Melb. 1973, pp.157-172.

111 Letter from Professor Wade to the Tasmanian Conservation Trust, 20 June 1973.

Professor Wade is probably correct; it is difficult to identify instances where the potential of prerogative writs has been consciously examined or utilised. But it is important to realise that although the writs are a traditional mechanism, they are very selective in purpose and application.

In general, the prerogative writs are orders directed to an inferior court to retain control over the performance of public duties. There are three forms of writ: mandamus, certiorari and prohibition¹¹². Mandamus is an order directing a public official to carry out a duty, but is always a discretionary remedy, since the courts have usually insisted upon tangible evidence of some interest (not necessarily pecuniary) in the matter. Prohibition and certiorari have a different but essentially complementary function: the quashing of an error by an inferior tribunal. The 'standing' rules for prohibition and certiorari are a little confused, but may be summarised as follows:

- (i) Where the applicant is a party to proceedings before the inferior court he has standing to obtain the writ, unless he clearly instituted proceedings which the lower tribunal lacked jurisdiction to determine;
- (ii) A stranger to the existing proceedings may obtain a writ where the court, as a matter of discretion, thinks it appropriate to protect the public interest¹¹³.

Obviously the use of such writs is highly contextual; in each specific instance it is necessary to convince the court that action

112 Wade, H.W.R., *Administrative Law*, Oxford University Press, London 1962.

113 Australian Law Reform Commission, *Standing : Public Interest Suits*, *op. cit.*, p. 9.

should be taken. Yet selectivity in application need not necessarily be an obstacle to progress. Environmentalists are fond of claiming that particular situations are 'unique'; if this is truly so, they should not object to providing justification for judicial intervention¹¹⁴.

(g) Constitutional Cases

Challenges to the constitutional validity of legislation are always prospectively feasible within the Australian jurisdiction, but only in cases where an individual can show detriment to property rights or a threat of prosecution under legislation. Unlike Canadian law, Australian law does not permit a mere taxpayer to impugn the constitutional validity of legislation or an intergovernmental agreement¹¹⁵.

(h) Relator Actions

Anglo-Australian law postulates two situations in which a private litigant may obtain an injunction against a breach, or contemplated breach of public duty:

- (i) Where it can be deduced that the intention of the statute was to give a private plaintiff a cause of action; such cases are relatively rare; or
- (ii) Where the interference with the public right is such that some private right of the plaintiff is simultaneously affected, or although no private right has been infringed, the plaintiff has suffered special damage peculiar to himself, from interference with the public right (*Boyce v. Paddington Borough Council* [1903] 1 Ch. 109.¹¹⁶

114 Environmentalists tend to regard each issue as 'special' because of emotional involvement. Courts attempt to be more dispassionate and look to guidance from the past (precedent), hence comparability is not easily achieved.

115 Australian Law Reform Commission, *Standing : Public Interest Suits*, *op. cit.*, p. 9 and pp. 14-15.

116 For discussion, see Chapman R.J.K. and Roebuck D., *op.cit.* pp. 52-53; also Australian Law Reform Commission, *Standing : Public Interest Suits*, *op. cit.*, pp. 8-9.

The usual way of enforcing a public interest is by a relator action; a suit brought by a private citizen in the name of, and by the leave of the Attorney-General.

Historically, the Attorney-General is the Crown representative appointed to enforce its property rights and interests, but the office has undergone considerable transformation within the Australian jurisdiction and now encompasses many administrative functions. A special function is that of providing 'standing' on behalf of aggrieved citizens in certain circumstances, but the Attorney-General is not answerable to the courts in any way as to his decision to sue, or not to sue in his own name, or to grant or refuse a fiat for relator action¹¹⁷. In practice, relator actions are rare and granted only in cases where it is obvious that the public interest must be protected. Equally, many cases may be cited where the Attorney-General has failed to grant his fiat, presumably because he considered that it might be politically prejudicial to his party in government. There is no redress against such judgments, even though they make a mockery of the law.

The Australian Law Reform Commission cites the following examples as evidence that relator actions are not easily achieved:

(i) The Sugar Agreement (1931)

A farmer sought an injunction that the agreement between the Commonwealth Government and Queensland was unconstitutional. He failed because of lack of standing since it was not entirely clear that the public interest must be protected in some specific way.

117 *Ibid*, p. 9.

(ii) Helicopter Utilities Pty.Ltd. v. the Commonwealth (1961)

The federal Attorney-General declined a fiat for reasons that remain obscure.

(iii) The Lake Pedder Controversy (1972)

Details of this case are described in Chapter 4, but in essence, conservationists were advised that, due to an error in the legislation, the proposed action by the Hydro-Electric Commission to flood Lake Pedder was illegal. The environmentalists sought a fiat from the Tasmanian Attorney-General to allow a challenge. He announced that he would grant a fiat, but State Cabinet intervened and instructed him to the contrary. He resigned and was replaced as Minister by the Premier, who declined to act. Retrospective legislation was then passed to validate the flooding of the lake and the courts were given no opportunity to rule on the legality or otherwise of the construction works.

(iv) Mt Etna Recreation Reserve (1975)

Some time after mining leases were granted in the Mt Etna Recreation Reserve in Queensland, conservationists applied to the State Attorney-General for a fiat to enable injunction proceedings on the grounds that the granting of leases in a reserve was a breach of the Mining Act. By an Order-in-Council the reserve was revoked; the Attorney-General then refused a fiat, no grounds being stated¹¹⁸.

Given these episodes, environmentalists can have little confidence that relator actions will prove feasible or effective.

118 *Ibid*, pp. 9-10.

(i) Locus Standii

Chapman moves from a study of relator actions to an interesting survey of Australian case experience in respect of locus standii; and in particular draws attention to an address given by Professor Taylor of the Faculty of Law, University of Melbourne, at a federal seminar on environmental law in December 1974¹¹⁹. Taylor noted that locus standii was prospectively feasible where someone with a pecuniary or riparian right consented to act in concert with others in constituting a class action, but that such cases were rare. (See Martell v. Consett Iron Co. Ltd. (1955) for an instance where the collective interest of anglers was recognised). Normally the courts require an individual to show clearly that his 'interest' has been affected, or to show that the tort of maintenance is not occurring (the tort of maintenance is the promotion or support of contentious legal proceedings by a stranger who has no direct concern in them)¹²⁰. The Fraser Island case, examined in detail in Chapter 7, also makes a clear distinction between the public as a whole and a special interest group in determining what is, or is not 'in the public interest'¹²¹. The legal obstacles remain formidable overall.

6.6 SUMMARY AND ASSESSMENT OF PART B OF THE CHAPTER

In Part A of the Chapter it was argued on a variety of grounds that although an ostensibly wide range of legal tactics was potentially available to conservationists, in practice identification of the public interest and non-recognition of locus standii constituted formidable obstacles to environmental litigation. Part B of the Chapter has further reinforced this point by illustrating Australian case experience to date. Many attempts have been made to use the concept of public nuisance to prevent particular

119 Taylor G.D.S., 'Standing to bring Suits on Environmental Issues', in *Environmental Law : The Australian Government's Role*, *op. cit.*, pp.46-65.

120 *Ibid*, pp. 47-48.

121 Identification of 'the public interest' is a complicated matter. For discussion see Eckstein H., 'Group Theory and the Comparative Study of Pressure Groups', in Eckstein H., and Apter D., (Eds.), *Comparative Politics*, The Free Press, Glencoe, Illinois, 1963, pp. 389-396.

actions taking place or to argue for compensation for individuals or groups, but in most instances such attempts at legal redress have proved unsuccessful. Relator actions are equally unreliable in that the discretion of the attorney-general is absolute and unlikely to be exercised in circumstances where the attorney-general's ruling political party is likely to be embarrassed. Formidable as these deterrents are, they do not totally dissuade eco-activists from seeking legal redress of grievances. Part C of the Chapter deals with one of the most important cases to date : the Precipitous Bluff controversy in South West Tasmania.

PART C : THE PRECIPITOUS BLUFF JUDGMENT

6.7 MINERALS EXPLORATION AND ENVIRONMENTAL RIGHTS

One of the fields of natural resources management which seems especially prone to conflict and litigation is that of minerals exploration and extraction. Not only do lawsuits occur about the location and extent of mineral claims, as well as ownership and exploitation of resources, but environmentalists have repeatedly challenged the rights of developers to prospect certain kinds of publicly-owned land such as national parks, nature reserves and areas claimed to be sensitive to environmental impact, or which warrant conservation status for a variety of reasons¹²². The principal argument submitted by the conservation groups is that modern exploration methods, including bulldozing of access routes and sample pits, are far more destructive than hand-sampling methods of the past. Moreover, government agencies, such as mines departments, do not always adequately enforce the environmental safeguards and procedural guidelines which are nominally supposed to protect the landscape¹²³.

Mining interests vigorously refute these claims and argue both a traditional and economic justification for open exploration access to all

122 *Conservation and Mining*, Australian Conservation Foundation, Special Publication No. 8, Melbourne, 1972.

123 Lothian T., 'National Parks and Equivalent Reserves' in *Conservation and Mining*, *op. cit.*, pp. 49-56.

land, public and private¹²⁴. The conservationists believe there is no reason why laissez-faire abuses of the past should be permitted to continue and that the proclaimed economic benefits of the mining industry are matched by social costs and environmental attrition¹²⁵. The mining corporations are perhaps more persuasive when they argue that environmental guidelines are not always easy to implement and that adequate attempts are now made to minimise damage and undertake rehabilitation measures¹²⁶.

This is not the place to detail all the claims and counterclaims of the protagonists; ample discussion is recorded in a variety of texts and reports by authorities both within and outside Australia, and in policy statements by the Australian Conservation Foundation and the Australian Mining Industry Council¹²⁷. As previously noted in Chapter 3, the latter organisation constitutes one of the most powerful lobbying groups in Australia, funding an effective public relations and educational programme as well as an expensive and well-organised presence in Canberra. Such significant pressure is understandable given the profitability of the mining industry, its large stake in national development and resource exploitation, and multinational corporation ownership well versed in persuading governments to accept a particular viewpoint¹²⁸. Although positive evidence is difficult to obtain, there is a considerable body of opinion, supported by the Council's own statements and some press comment, to suggest that the Australian Mining Industry Council has sometimes aimed quite deliberately at destroying the credibility and viability of the Australian conservation movement. In addition, there is firm evidence of attempts to influence

124 Phillips G.P., 'The Mining Industry and National Development'. Paper presented at Symposium on Conservation and Mining, University of Sydney, 20 February 1971, in *Conservation and Mining*, *op. cit.*, pp. 5-10.

125 *Conservation and Mining in Modern Australia*, Australian Conservation Foundation Viewpoint, No. 6, Melbourne, August 1971.

126 Bambrick S., *Australian Minerals and Energy Policy*, *op. cit.* pp. 127-129.

127 See Symposium on Australian Mining, *Search*, Vol. 5, Nos. 1-2, Jan-Feb, 1974. pp. 7-70.

128 The Australian Mining Industry Council's viewpoint is frequently expressed in the journal *Mining Review*, (monthly), Sydney.

politicians to water down the entire gamut of environmental legislation introduced by the Whitlam Government between 1974 and 1976¹²⁹. These statutes, such as the Environmental Protection (Impact of Proposals) Act 1974, the National Parks and Wildlife Conservation Act 1975, the Great Barrier Reef Marine Park Act 1975 and the Australian Heritage Commission Act 1976, are considered to be the very cornerstones of environmental protection in Australia.

There are a number of reasons why environmentalists face difficulties in challenging minerals exploration and exploitation activities:

- (i) As Bambrick points out, national minerals policy tends to be ad hoc and advisory to State governments, except where export controls, capital transfers, taxation provisions and local participation are clearly Commonwealth functions¹³⁰. There is a political limit to the degree of influence which the federal Government can bring to bear on States anxious to exploit development opportunities. Environmentalists do not seem particularly interested in using federal controls as leverage, but in any event may lack the relevant knowledge and access to do so¹³¹.
- (ii) State minerals legislation varies widely between jurisdictions and in respect of ministerial discretion, the powers and functions of mining wardens, royalty conditions, performance bonding and the like¹³². An intimate knowledge of the statutes and regulations is required if community groups are to seek redress of grievances.

129 Mosley J.G., 'Protect the Environment Acts', *The National Parks Journal*, Vol. 25, No. 4, June-July 1979, pp. 11-14.

130 Bambrick S., 'Mining : The Problems for Australian Governments', *The Australian Quarterly*, Vol. 45, No. 1, March 1973, pp. 64-77.

131 The shortage of lawyers within the environmental movement may explain why potential legal strategies remain unexploited.

132 Bambrick S., 'The Integration of Australia's Mineral Policies, paper presented at 44th ANZAAS Congress, Sydney, August 1972.

- (iii) A close affinity seems to exist between State mines departments and mining companies, in part induced by common value systems about a 'growth ethic', and also because of shared confidentiality about development proposals. It is extremely difficult to penetrate this bureaucratic secrecy and alliance with the private sector, but it is not unknown for government agencies to advise private corporations on how to oppose conservation proposals by national parks services or conservation groups¹³³. There are several recorded instances where licence renewals, and other forms of exploitation approval, have been worded or timed to circumvent the introduction of environmental safeguards.
- (iv) Some of the existing mining statutes are quite out of date and tend to reinforce the laissez-faire philosophy prevailing in the gold-rush days of the 1850s. Indeed, the legislation sometimes gives mining activity clear precedence over all other prospective forms of land use, but without an effective mechanism for review and appeal or performance assessment¹³⁴. Information about the situation is often concealed from the public on the grounds that it is 'commercial intelligence' and therefore confidential.

The countervailing arguments against the above are that conservation groups are sometimes unreasonable in their demands and obstructive to much-needed resource projects. The mining industry would claim that its operations comprise an essential economic activity in a developing nation and must be permitted to continue, that a great deal of minerals exploration activity occurs at sites remote from civilisation, where environmental impact is not noticeable or constitutes only a small percentage of landmass, and that mining activity may even occasionally produce interesting terrestrial features.

133 Cases cited to the author during interviews with conservationists and public servants. Two Tasmanian examples include the Coles Bay Granite proposals and the Precipitous Bluff case recorded in this Chapter.

134 See the Tasmanian Mining Act (1929) for example, especially Clauses 13-17 inclusive. Note the powers conferred by miners' rights in Clause 16.

Not all corporations are rapacious and many prefer to demonstrate awareness of their vital role in national development¹³⁵. Nonetheless, the pattern is certainly not uniform and conservationists are understandably eager to point to the occurrence of shortcomings. As always, the central problem is to devise appropriate policies, administrative machinery and review and appeal procedures which will simultaneously permit the mining industry to discharge its function and enable government to prevent major loss of environmental quality. Neither statutes, policies, organisational arrangements or legal procedures seem adequate or appropriate at present. This is best illustrated if we employ a case study to demonstrate the complexities involved. The classic case within the Tasmanian jurisdiction, and a major precedent within the national framework, is the Precipitous Bluff case which extended from October 1971 until June 1977, and which has important implications for the future.

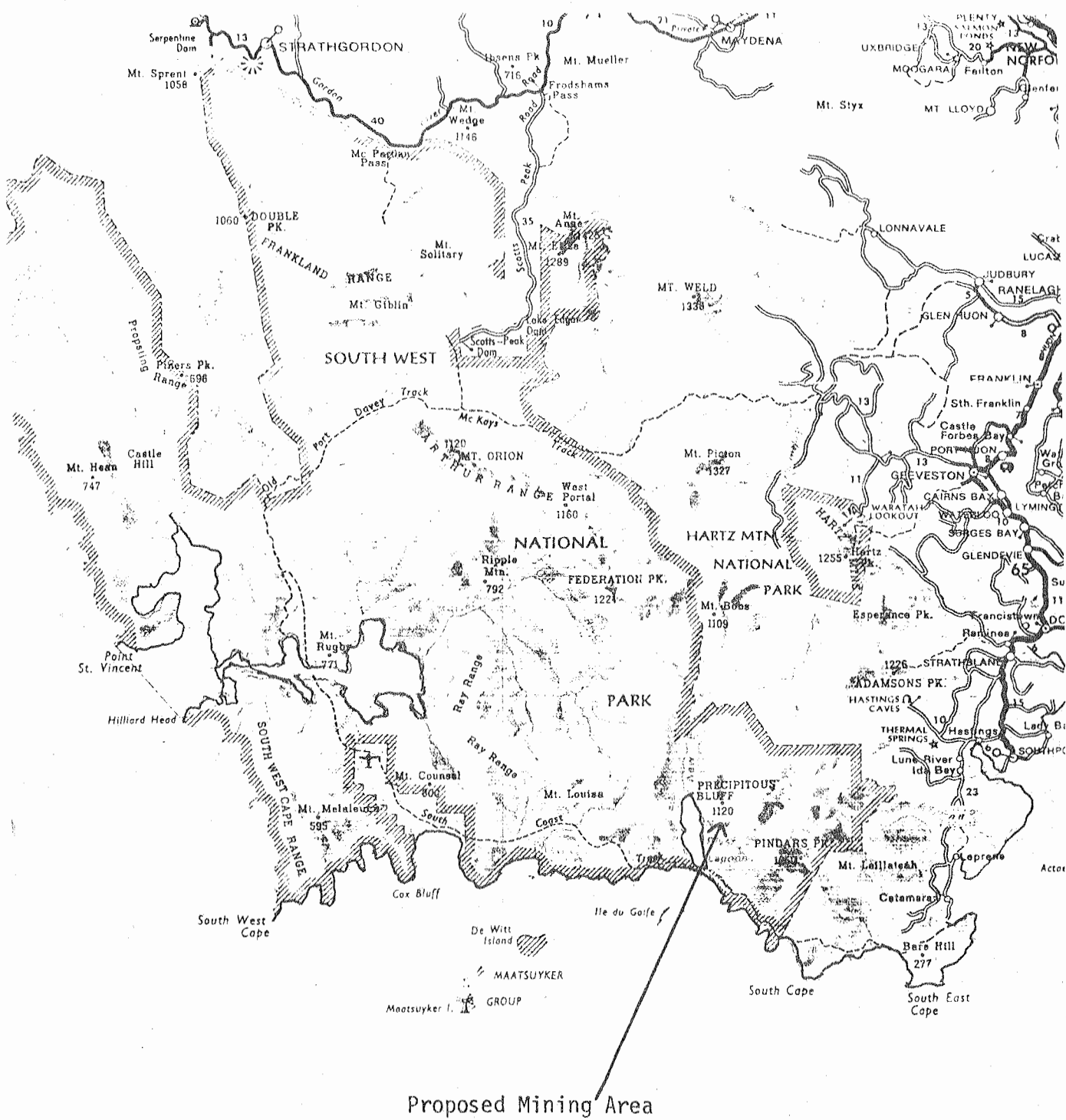
6.8 THE PRECIPITOUS BLUFF CASE, 1971-1977

6.8.1 Opening Phases

In October 1971 Mineral Holdings (Australia) Pty.Ltd., a Melbourne based company, applied for a special prospectors licence to permit exploration for limestone and other minerals in the Precipitous Bluff area of South-West Tasmania (see Map 8). The area is one of incomparable scenic grandeur, the impressive dolerite cliffs of the Bluff being surrounded by primeval forest, flanked on the west by New River Lagoon and on the south by the surf-fringed beaches of the coast. In a special scientific report forwarded to the Tasmanian National Parks and Wildlife Service in 1969, Messrs. Hemsley and Grey had recommended that the entire region should be preserved in its wilderness state as a scientific reference point, providing an unbroken sweep of terrain and flora ranging from sea level to over 1300 metres in altitude¹³⁶. Visitors to the region believed

135 Note the endowment of charitable and research foundations by some mining corporations, also the employment of environmental officers to limit ecological impact of projects.

136 This report was never publicly released, but its contents became known during proceedings in a Mining Warden's Court in December 1972.



MAP 8 : THE PRECIPITOUS BLUFF REGION, SOUTH-WEST TASMANIA

that the Bluff and its surroundings comprised one of the most beautiful scenic features of the State.

Under the provisions of the Tasmanian Mining Act 1929, Section 15A:

' Upon the recommendation of the Director and upon being satisfied as to the ability of the applicant to prospect the claim effectively. . . . the Minister may grant to each person a special prospector's licence in respect of such area of land, not exceeding twenty-five square miles, as the Minister thinks fit.'

Section 15C of the Mining Act requires the applicant to advertise his intention to apply and any person:

' who claims to have an estate or interest in any land within the area in which such advertisement has been published may object to the granting of the licence.' 137

In the case of Mineral Holdings, a number of objections were received on technical grounds and the company withdrew its initial submission¹³⁸.

A revised application was forwarded by Mineral Holdings in December 1971 and again numerous objections were received by the Mines Department, principally from conservation groups acting through individual members but also from the Tasmanian National Parks and Wildlife Service¹³⁹.

Virtually all of the objections were on environmental grounds, as the Precipitous Bluff region formed part of the South-West Conservation District established in 1966 under the Animals and Birds Protection Act 1928. Conservationists had been lobbying for many years to have Precipitous Bluff incorporated into the South-West National Park, but at the time of Mineral Holdings' application only its isolation in rugged and uninhabited country offered protection to the Bluff. It was one of the anomalies of the Animals and Birds Protection Act that fauna could be declared protected while no

137 The Tasmanian Mining Act 1929 (20 Geo V No. 71) and Amendments.

138 Wessing P., 'The Precipitous Bluff Case', in Gee H., and Fenton J., (Eds), *The South West Book*, op. cit., pp. 263-266.

139 Cole D.H., 'The Precipitous Bluff Case', *The National Parks Journal*, Vol. 22, No. 3, April-May 1978, pp. 14-16.

provision existed for safeguarding their habitat¹⁴⁰. Environmentalists were incensed that the State Government had not taken any positive action to protect the region's environmental value, but the area was Crown land and Mines Department policy at that time was to promote minerals exploration in all parts of the State, including potential or actual national park sites. Indeed, the out-dated Mining Act of 1929 appeared to encourage minerals exploration and development by granting the legislation precedence over all other land use activities.

Although Mineral Holdings claimed that limestone from the Precipitous Bluff region was especially pure, experts were puzzled by the apparent lack of demand for the material within Tasmania and the questionable economic viability of transporting such a bulky low-value product from a difficult and isolated location to mainland or overseas markets¹⁴¹. Rumours were rife that the exploration application was merely a subterfuge by the minerals industry to test the conservation movement, particularly its financial viability and willingness to engage in litigation if the need arose. Some commentators viewed the situation as one where a small company was trying to establish rights and prove resources prior to selling out to a larger corporation. Others claimed that Mineral Holdings was merely a front for major domestic or multinational enterprises trying to corner a particular resource location in order to prevent its exploitation by competitors¹⁴². None of these speculations was ever proved or disproved, but despite the limited paid-up capital of the company, Mineral Holdings never seemed to lack financial backing in its conflict with conservationists.

For their part the environmentalists faced many problems. Not only was there virtually no experience in Tasmania of conservationists seeking

140 Animals and Birds Protection Act 1928 (10 Geo V, No. 51) and Amendments. This Act is now superseded by the National Parks and Wildlife Act of 1970.

141 For discussions see statement by Champion B., at a public meeting in Hobart Town Hall, 31 July 1973.

142 These rumours were based on information from mainland centres of the mining industry, but no substantial evidence was ever uncovered there or in Tasmania.

to prevent mining activities, but the entire local movement was fully enmeshed in the protracted Lake Pedder case and was working against time to prevent the lake being flooded as the construction of various dams proceeded. Under the Mining Act of 1929 only individuals, not organisations, could protest the granting of minerals exploration licences, hence it was necessary for courageous and determined conservationists to put their own wealth at risk by taking up the challenge. The newly-established Tasmanian Conservation Trust Inc. came to the rescue by offering its backing to Stow et. al. who acted as objectors to Mineral Holdings' application¹⁴³. The Trust was also taking a risk since there was no clear indication as to how long the struggle might ensue or what commitment of time and money might be involved.

6.8.2 The Mining Warden's Judgment, December 1972

Following the receipt of objections to the granting of a special prospector's licence to Mineral Holdings, a Mining Warden's Court was convened in Devonport on 4 December 1972 in accordance with Section 1, 150(4) of the Mining Act 1929. After hearing preliminary argument by counsel for the objectors as to alleged inaccuracies in newspaper advertisements about the land affected, the Mining Warden (Mr J. Temple-Smith) ruled that he would permit the application to be heard¹⁴⁴. He then received detailed evidence for and against the special prospector's licence being granted. One of the principal witnesses for the objectors was a national parks officer, appearing on subpoena, after the then Minister for National Parks and Wildlife had refused permission for the individual concerned to deliver personal evidence. The National Parks and Wildlife Service were known to be sympathetic to the conservation viewpoint, but following the

143 The initial objectors were individual members of the Launceston Walking Club and Hobart Walking Club, two bushwalking organisations. Conservationists offered support and it was eventually decided that environmental groups should represent Stow et. al.

144 See transcript of Mining Warden's Court proceedings, 4 December 1972, pp. 1-2.

election of a Labor Government in February 1972, had been forced on ministerial direction to withdraw their objections to Mineral Holdings' application¹⁴⁵.

The Mining Warden delivered his judgment on the objections on 5 December 1972 and found against Mineral Holdings (Australia) Pty.Ltd., who immediately announced their intention to appeal to the Supreme Court of Tasmania. In rendering judgment for the objectors against Mineral Holdings, Mr Temple-Smith stated:

'... It is abundantly clear from the evidence that the conservation value of the area is very great indeed and in fact is the highest category of importance for the State as a whole. ... Evidence was quite overwhelming that any mining activity would have a harmful effect on the environment of the locality, out of proportion to any advantage resulting from sampling the limestone deposits. ... And, on balance, on the evidence before me, the advantages of retaining the area in its present primeval and pristine condition, far outweighs the nebulous benefits derived from the mining activities proposed. ... The Application for a Special Prospector's licence by Mineral Holdings (Australia) Pty.Ltd., will therefore be refused.¹⁴⁶

As The Examiner newspaper commented, this was an historic decision since it seemingly established in Tasmania the right of individuals or community groups to protect the public domain. The Examiner stated in an editorial:

'... One might feel astonished that this was ever in doubt, but apparently it had not hitherto been firmly accepted in law. Now an alert and vigilant section of the public has been recognised as lawful guardians of the people's property. ... Crown land is not the property of government, but of the people. Surely Temple-Smith's decision underlying this evident truth will pull the despoilers up sharply, for it emphatically vindicates the people's role as inheritors of the public land, and as its guardians for their heirs.'¹⁴⁷

When Mineral Holdings announced its intention to appeal against the judgment, the Tasmanian Conservation Trust Inc. the State's largest environ-

145 Mosley J.G., 'Precipitous Bluff : No Room for Compromise', *Habitat*, Vol. 1, No. 2, September 1973, pp. 4-7. See also records of the Tasmanian Conservation Trust Inc. concerning the Precipitous Bluff case.

146 Mining Warden's Court Judgment, *Mineral Holdings (Australia) Pty.Ltd. versus Tasmanian Conservation Trust and Others*, Devonport, 5 December 1972, pp. 5-6.

147 Editorial in *The Examiner* newspaper, Launceston, 6 December 1972.

mental group, declared that if the need arose it would act on behalf of the conservation movement to pursue the matter to the High Court of Australia. While it had not cost the individual objectors to Mineral Holdings' application any substantial expense to appear in the Mining Warden's Court, any extension of litigation was bound to involve a considerable commitment of time and money. The Tasmanian Conservation Trust therefore entered into an informal agreement with the objectors whereby the Trust would act on their behalf through legal counsel and indemnify them against any claims or costs incurred in further court action¹⁴⁸. 'Stow and Others', the initial objectors in the Mining Warden's Court, thus became 'The Tasmanian Conservation Trust and Others', throughout the remainder of the case. In pursuing this line of action, the Tasmanian Conservation Trust announced that it was seeking environmental rights for all Australian citizens and not merely those individuals involved in the Precipitous Bluff case¹⁴⁹. This was undoubtedly a worthy aspiration, but it inevitably raised the stakes in the contest and meant that the mining industry was bound to support Mineral Holdings' campaign. It was also a slightly unrealistic aspiration, in that any judgment based upon Tasmanian law would not necessarily gain acceptance in other State jurisdictions.

The Tasmanian Conservation Trust quickly established a fighting fund and sought donations from the public and other environmental groups, but the slow rate of contributions attested to the difficulty of pursuing pioneering legal work. Most Australian conservation groups were already fighting battles on many fronts, hence the Tasmanian Conservation Trust faced potentially severe financial penalties if it lost the case and was forced to meet its own and its opponent's legal costs. This risk was

148 It was a measure of confidence in the Tasmanian Conservation Trust that this agreement was never formalised in writing but operated solely upon acceptance by the parties concerned.

149 At this period (1972-1973) it was confidently expected by Australian environmentalists that locus standi would be rapidly achieved. This was a somewhat naive assessment.

explicitly recognised by the Trust, but it did not deter the members from pursuing their objectives¹⁵⁰.

6.8.3 Other Developments

In the period between Mineral Holdings' original licence application and the Mining Warden's decision, other events had occurred which further complicated the situation:

- (i) Intensive lobbying was being carried out by environmentalists for the inclusion of the Precipitous Bluff region into the South-West National Park¹⁵¹. Strong pressure was also being mounted for a Commonwealth inquiry into the Lake Pedder case; an event which would be likely to focus public attention on South-West Tasmania as a whole;
- (ii) Other interests had sought mineral exploration rights in the Precipitous Bluff region and were complaining that the Mines Department had shown undue preference for Mineral Holdings' application¹⁵².
- (iii) Forestry roads were beginning to penetrate the South-West region and there was growing evidence that construction of access routes into the South Cape Rivulet area and the Picton Valley might eventually mean exploitation of pulpwood and sawlog resources around Precipitous Bluff.¹⁵³ The Australian Army were also contemplating the establishment of a firing range in the Catamaran-Cockle Creek area, again posing issues about access and resource usage¹⁵⁴.

150 Having gained experience during the Lake Pedder campaign, Tasmanian conservationists were confident they could raise sufficient funds to pursue their case, but only when pressure was exerted on members to contribute.

151 Direct approaches were made to many politicians and a vigorous press campaign was conducted. See accounts in the Newsletters of the Tasmanian Conservation Trust 1972-1973.

152 It is debatable whether these mineral exploration applications were genuine or merely intended to keep Mineral Holdings out of the South-West. The applicants were competing minerals companies, not conservationists.

153 Kirkpatrick J., 'Forestry and the South-West', in Gee H., & Fenton J., (Eds.), *The South West Book : A Tasmanian Wilderness*, op. cit., pp. 196-197.

154 This was a curious proposal, given the availability of land suitable for army training elsewhere in Tasmania.

Each of these factors captured newspaper headlines, but it was the uncertainty created rather than any direct threat which made both the Government and the conservation movement wary of action in the Precipitous Bluff case.

6.8.4 The Appeal Judgment, June 1973

Mineral Holdings' appeal to the Supreme Court of Tasmania was based upon a number of grounds, but principally upon a claim that the Mining Warden was wrong in law in recognising that the objectors had any estate or interest in the land, and also that the Mining Warden had exceeded the powers conferred on him by the Mining Act of 1929 (i.e. that his role was advisory to the Minister and not judicial in the sense of determining claims)¹⁵⁵. The appeal was lodged in the Supreme Court of Tasmania on 19 December 1972 and judgment was delivered by Mr Justice Nettlefold on 8 June 1973.

Mr Justice Nettlefold allowed the appeal by Mineral Holdings; that is he overturned the resolution of the Mining Warden's Court. In giving judgment, his Honour stated:

' The phrase 'estate or interest in land' is a phrase which sounds through the centuries. It has an established meaning. It appears innumerable times in the various conveyancing and Law of Property Acts and in the Real Property Acts. And it is a trite law that a mere licence does not confer any interest in the land to which it relates. . . . Confirmation of the proposition that 'interest in land' has a traditional meaning in Section 15C(3) can be found in the fact that the phrase is used a number of times in the Mining Act so as to show that it is confined to proprietary interests (see S. 39 (i), 116(i), 120(4), 124(1). I am conscious of the fact that in some of these instances the reference is to an interest in land, but, in all instances, the reference is to some proprietary interest (and the term 'interest' is not used in any loose sense).

. . . . In my opinion the submission of counsel for the respondents fails to give proper weight to further aspects of this question. They are :

155 See Notice of Appeal lodged by Mineral Holdings, 19 December 1972, paragraphs 1 and 2.

1. That the function conferred on the Warden is quite narrow in scope. A consideration of the public interest in the broadest sense is the function of the Minister and not the Warden. (S. 15A).
2. In a very real sense the Mining Act is a branch of the Property Law of the State. Its purposes are to promote mining and the exploitation of the mineral resources of the State and inter alia create, define, and regulate proprietary interests in lands and minerals and reconcile competing interests in respect of them. It is in the last sense that I describe it as, in a sense, a branch of Property Law.

These two factors assist in the conclusion that the context does not require any departure from the traditional meaning of the phrase 'estate or interest in any land within the area'.

. . . . For these reasons I am satisfied that none of the objectors had any right to be heard by the Warden and their objections should have been struck out.' 156

This view was subsequently confirmed by the Full Court of the Supreme Court of Tasmania, which also agreed with a decision by Nettlefold J. that the Mining Warden had erred by acting in a judicial manner when his true function was to act in an advisory role to the Minister. The Supreme Court ruled that the decision of the learned Warden should be reversed and the objections struck out as incompetent¹⁵⁷.

6.8.5 Implications of the Appeal Judgment

Commenting on this decision the Environmental Law Reform Group at the University of Tasmania drew attention to the fact that the role of the Mining Warden was now seriously reduced, his only function being to:

- (i) Decide whether any person had an estate or interest in land and advise the Minister on this question; and
- (ii) adjudicate on marking-out disputes between applications for a licence.

The Environmental Law Reform Group was extremely critical of the situation where a minister had almost complete control over the granting of mining

156 Quotation from Appeal Judgment by Nettlefold J. in the Supreme Court of Tasmania, 8 June 1973. (Serial No. 24/1973, List A). For discussion see *The National Estate and the Public Interest : Precipitous Bluff, Environmental Rights and Mining*, Environmental Law Reform Group, University of Tasmania, Hobart, June 1973, pp. 22-31 and pp. 32-33 (comment).

157 Appeal to the Full Court was lodged by the Tasmanian Conservation Trust Inc. on 28 June 1973. The appeal was heard in November 1974 and rejected in May 1975, (i.e. Mineral Holdings succeeded in having the initial Mining Warden's judgment overturned).

licences with no public scrutiny or appeal from such decisions. The Group claimed that the Mining Act required major revision both to remove anomalies and lack of clarity, as well as to allow objections and appeal where public interest issues were involved¹⁵⁸.

In retrospect it would appear that the objectors (i.e. the conservationists) made a serious tactical error in the Mining Warden's Court when they failed to claim an estate or interest in the land. Such a claim, whether sustained or not, would have forced both the Warden and the Supreme Court to examine the case for locus standii in very fine detail and not merely resort to traditional property law perspectives. Counsel for the environmentalists inadvertently weakened their case by conceding that no estate could be claimed, despite the fact that, at that time, up to four hundred people each year used a walking track through the Precipitous Bluff area, and the conservationists had persuaded the Government to provide this common-property facility because of public interest in the area¹⁵⁹.

The Examiner newspaper's editorial of 11 June 1973 expressed the layman's view of the judgment very forcibly:

' . . . At a simple non-legal level it would appear to the layman that the ownership of Crown land is vested in the public wholly and individually: the people's land Mr Reece (the State Premier) and his Ministers may think otherwise. But at the very least they owe it to the changed environmental thinking and heightened ecological awareness of the 1970s to do nothing unless the public is taken into the Government's confidence; to do nothing without making every effort to assess the public view; to do nothing unless the pros and cons have been fairly put and fairly assessed by men whose fairness will be unquestionably accepted. Whatever the Government does - or does not do - it cannot hide behind the arid legalism which refuses to acknowledge that Crown land belongs to the people and that the Government acts as an agent for the people and not for the mining companies.' 160

158 The Environmental Law Reform Group did not suggest specific reforms of the Tasmanian Mining Act, but outlined some principles of Michigan law which might perhaps be applied in the Australian context.

159 Cole D.H., 'The Precipitous Bluff Case', *op. cit.*, p. 14.

160 Quoted in *The National Estate and the Public Interest : Precipitous Bluff, Environmental Rights and Mining*, *op. cit.*, pp. 34-35.

6.8.6 Appeal to the High Court of Australia, June 1973 to June 1977

At this juncture, the environmentalists might easily have recanted, recognising there was now little prospect of legal redress and before getting further enmeshed in expensive litigation in the High Court of Australia. But there were powerful motivations for continuing the struggle. A moral commitment had been entered into to seek environmental rights for all Australians. A federal inquiry into the Lake Pedder controversy was in progress and it was tactically necessary to use every endeavour to press for the inclusion of all wilderness areas into the South-West National Park. If the worst came to the worst, a cutoff point could be decided upon prior to court appearance¹⁶¹. All indicators suggested that the case should be further pursued, while normal lobbying was in train at political levels. In November 1973, the Tasmanian Conservation Trust Inc. instructed counsel to lodge an appeal with the High Court of Australia, even though some of its advisers warned that prospects of success were not high. Some optimistic support was available from environmental lawyers in other States, who had previously been involved in conservation issues on behalf of the Australian Conservation Foundation¹⁶².

One of the characteristics of High Court action is that considerable preparation and delay is usually involved before court appearance occurs. Expensive case books must be prepared and eminent Queen's Counsel briefed. Also the heavy workload on the courts means that nobody can predict with certainty when the case will be heard. The environmentalists were thus implicitly using a social time preference rate¹⁶³. By investing in legal advice and court appearance, they hoped the time gained could be used to

161 The Trust was perhaps evading the issue of whether a cutoff point could be identified and who would be responsible for making such a decision.

162 See confidential assessments prepared for the Tasmanian Conservation Trust 1974 to August 1975. (Now on file in the Trust's records, Hobart).

163 'Social time preference' is an economic term, implying the sacrifice of current benefits in favour of assumed longer-term gains and accruals.

advantage to rally support for the gazettal of the Precipitous Bluff region into the South-West National Park. Keeping an issue before the public is a difficult task for any voluntary organisation, and in retrospect one may argue that the Tasmanian Conservation Trust's efforts were too ad-hoc and spasmodic. However, in fairness to the Trust it must be pointed out that they were simultaneously engaged in a number of other issues, including several of great importance to nature conservation in the State. Additional effort was also required for fund-raising and submissions to various Government enquiries, while membership changes were also occurring within the Trust's State Council¹⁶⁴.

Outside the immediate arena of the Precipitous Bluff conflict, forces were at work within Government which would place even greater strains on the Australian conservation movement. Although important and progressive environmental legislation was being established by the Whitlam federal Labor Government, the first signs of a downturn in the Australian economy were also becoming apparent and seemed likely to result in some curtailment of grants to voluntary conservation organisations and to nature conservation programmes generally¹⁶⁵. At the State level, throughout 1974 and 1975, there was no amelioration of the Reece Government's hostility to conservationists; indeed federal condemnation of the Lake Pedder proposals had resulted in parochial determination to develop the resources of the South-West to the full. The community was bitterly divided over the issue and although fierce support was evident on both sides, it became harder for the conservation movement to gain recruits in a situation where even modest commitment would be castigated¹⁶⁶.

164 As noted in Chapters 2 and 3, voluntary organisations wax and wane over time, according to membership, leadership, activism and resources. The Trust was particularly busy with a variety of causes during 1973-1975, especially the Lake Pedder controversy.

165 Cutbacks in federal expenditure occurred in urban and regional programmes as well as environmental protection. See Patience A., and Head B., (Eds.) *From Whitlam to Fraser, op. cit.*, Chapters 4 & 8.

166 Some attempted victimisation occurred within the Tasmanian community against those who spoke out for saving Lake Pedder, but the instances were isolated and largely unsuccessful.

Nonetheless, in some degree the conservationists' cause was successful. The Supreme Court had created sympathy for the underdogs; those individuals who had risked financial loss in a public cause. Relentless lobbying, aided by reasonable media coverage, was causing politicians to cast about for a compromise solution.

Unknown to the mining litigants, another timebomb was quietly ticking away behind the Precipitous Bluff minerals exploration debate. As early as February 1969, a Forestry Commission representative sitting on an ad-hoc committee examining the Precipitous Bluff area, had suggested the possibility of a trade-off by incorporating the area into the South-West National Park, but excising portion of the nearby Hartz Mountains National Park for timber production. This would involve modification of the forest concessions in the Precipitous Bluff region in favour of superior sawlogs and pulpwood on the western slopes of the Hartz Mountains National Park. As these proposals were discussed within Government and therefore confidential, conservationists had no inkling of what was proposed¹⁶⁷. In reality no 'swap' was ever required, as Schedule II of the Forestry Act of 1920 permitted the adjustment of forest concession boundaries without monetary compensation. As Kirkpatrick and Harwood have subsequently demonstrated, the 'swap' proposal represented a hidden subsidy of nearly \$2 million to Australian Paper Manufacturers Limited¹⁶⁸.

It was not until the Draft Management Plan for the South-West National Park was released for public comment in May 1975 that the 'swap' suggestion was disclosed. Most conservationists were strongly opposed to the surrender of any portion of the Hartz Mountains National Park, regarding

167 Tasmanian environmentalists generally have an effective intelligence network, but it failed to operate on this occasion.

168 Harwood C., and Kirkpatrick J., *Forestry and Wilderness in the South-West*, Tasmanian Conservation Trust Inc., Hobart, March 1979.

the attrition of one park as a threat to all¹⁶⁹. Parliamentarians, on the other hand, were pleased that a so-called 'compromise' could be reached, and authorising legislation was introduced into the House of Assembly in October 1976 and passed in December 1976 after a somewhat confused debate. The Act gave the Forestry Commission two years to assess the viability of the 'swap' and report its findings to APM Limited when, with their approval, the Act for transfer would take effect¹⁷⁰. There were several unsatisfactory aspects of this legislation, not least that it opened the way to forestry exploitation of the hitherto virgin wilderness regions of the middle and upper Picton River valley¹⁷¹. A pyrrhic victory had been achieved, as Precipitous Bluff was now excluded from minerals exploration and secure within the South-West National Park, but only by the sacrifice of other areas equally deserving of preservation.

The question facing Mineral Holdings and the Tasmanian Conservation Trust Inc. in 1975 and 1976 was whether to proceed in law once it became apparent that the Precipitous Bluff region would be conserved within the national park. Both sides had much to gain or to lose, as apportionment of court costs would be involved and a judgment against either party might establish important precedents having unforeseen implications for the future. After due deliberation both parties decided to proceed; Mineral Holdings because their prospects of success seemed high, while the Tasmanian Conservation Trust felt it incumbent to persevere in seeking environmental rights for all Australians, even if the initial attempt seemed likely to fail. Throughout 1976 both parties waited for the High Court hearing, but a succession of delays and postponements occurred and it was not until 1977 that the case was heard in Hobart¹⁷².

169 Alomes S., 'The Precipitous Bluff-Hartz Swap', paper presented in the Department of Political Science, University of Tasmania, October 1979, p. 11.

170 *Ibid*, pp. 17-18.

171 Road access would be required, increasing human visitation and bush fire risk.

172 It was the heavy workload of the High Court which caused the delay in hearing the case.

Since a new and important principle in law was involved, their honours seemed anxious to tease out all facets of the case and to ensure that counsel were on their mettle. The Tasmanian Conservation Trust's case was seriously weakened by the unexpected withdrawal of an eminent mainland Queen's Counsel, earlier briefed to appear, who suddenly pleaded pressing business forty-eight hours before the court sitting¹⁷³. A young and relatively inexperienced Victorian barrister appeared for the Trust and gave a creditable performance, despite the limited period in which to familiarise himself with the details of the case.

6.8.7 Decision of the High Court, 22 June 1977

The High Court judgment was concerned with four matters, summarised by Chapman as follows:

- (i) Whether Stow and Others (vide the Tasmanian Conservation Trust Inc) were competent under the Mining Act to object to the granting of a special prospector's licence to Mineral Holdings;
- (ii) Whether the Mining Warden had jurisdiction to decide if, in law or in fact, Stow and Others had any relevant estate or interest in land, the subject of the application for the licence;
- (iii) Whether objections to the granting of a licence were in fact objections within the scope and meaning of S.15C (8) of the Mining Acts 1929-59; and
- (iv) Whether the Mining Warden in hearing and determining these objectives was acting in a judicial capacity, since if he was not, there would be no right to appeal to the Supreme Court under Section 11D (1) of that Act¹⁷⁴.

173 It is not clear whether counsel withdrew fearing loss of the case, or whether alternative business was potentially more lucrative.

174 Chapman R.J.K., 'Notes on the High Court Decision in the Precipitous Bluff Case', Department of Political Science, University of Tasmania, June 1977. (Reasons for Judgment were issued by the High Court in Sydney on 22 June 1977)

In the 3:2 majority decision against Stow and Others, the major difference between the learned judges was their method of interpretation of relevant sections of the Mining Act. Aickin J. expressing the majority view, supported the judgment of Nettlefold J. in the Tasmanian Supreme Court, that:

- (i) Under the Mining Act 1929 and Amendments, the decision to grant or refuse the application for a special prospector's licence was the Minister's, on the recommendation of the Director, and not the Warden's who had no jurisdiction to make the order he had in fact made;
- (ii) The objectors had no estate or interest in the land and were therefore not persons entitled to object under S. 15C(3);
- (iii) The Warden was acting in a judicial capacity in making his order and what he had done constituted a final judgment within the meaning of Section 110(1) so as to allow Mineral Holdings to appeal against it to the Supreme Court; and
- (iv) Implicitly, although not specifically, the Warden had upheld the objections by making the order and he had no jurisdiction to determine this matter in law¹⁷⁵.

It cannot be too strongly emphasised that both the Supreme Court judgment and the High Court determination were based upon an interpretation of particular sections of the Tasmanian Mining Act and did not take into account any philosophical or legal issues about individual or collective amenity rights¹⁷⁶. Aickin J. expressly stated that the High Court's method was to deal with Sections 15A, 15B, 15C and 110 within the context of the whole Act and what he called 'the statutory scheme'. In essence,

175 Reasons for Judgment, *op. cit.*, pp. 1-33.

176 There was an underlying philosophy of property rights, reinforced by Aickin J.'s discussion of 'estate or interest' (monetary interest) in pp. 15-16 of Reasons for Judgment.

the argument was that the 1958 changes in legislation gave the Minister complete discretion to decide whether an exploration licence would be granted, subject only to the recommendation of the Director. The Mining Warden's function was merely to act as a filter in contested situations, ensuring that the requirements of the legislation are satisfied by the application and certifying this fact to the Minister.

It was this interpretation which Barwick C.J. attacked in his minority judgment and which was further supported by Murphy J. Barwick C.J. argued that Section 15 of the Mining Act was extremely defective in drafting, as is much of the Mining Act, and that it should not be the High Court's role to fill in gaps left by the legislators by extrapolation as to what was intended. Section 15 must therefore be interpreted as it now stands, in which case it is irrelevant whether Stow and Others had any estate or interest in the land; it is their claim of an estate or interest which has to be examined as grounds for objection. Barwick C.J. argued that S.15C (4) placed a mandatory obligation on the Mining Warden to hear the objection, subject only to its not being withdrawn or abandoned prior to the hearing. The Chief Justice also expressed the view that whatever the Warden might determine about the validity of the objection, the Minister could still grant or refuse the licence according to his own advice. For this reason, the Warden's Court performed no judicial function and there could not be any appeal from his decision to the Supreme Court under S.110 (1)¹⁷⁷.

6.8.8 Comment on the Judgment

The conventional approach inherent in the majority verdict reflects the traditional view of what mining acts are for, i.e. to protect financial interest. Nothing in the High Court judgment does other than perpetuate the status quo and underline the unfettered political control enshrined in the mining legislation. For the situation to improve in any way two major changes would appear to be required:

177 Reasons for Judgment, *op. cit.*, pp. 1-8.

- (i) Legislative reform to permit individuals to challenge development proposals without having to show any interest other than public concern. Presumably the kinds of change discussed in working papers of the Australian Law Reform Commission might serve as a model¹⁷⁸. However, it would need to be a general right in respect of all kinds of development activity and not merely restricted to mining operations. The drafting problems would seem to be immensely difficult.
- (ii) Alternatively, legislative and administrative changes would be required to ensure that ministers cannot exercise discretion without limitations being stipulated in some way. For example, in recent years a Tasmanian Minister overrode departmental objections and advice in granting a mining licence to quarry for granite at Coles Bay within the Freycinet National Park. He was able to do this without public justification or discussion. In order to prevent this kind of situation recurring, amendments to legislation would be necessary to require:
- (1) Ministers to specify reasons for action in cases involving the public interest however defined;
 - (2) Such reasons to be subjected to a period of public scrutiny and comment; and
 - (3) Tabling in Parliament for a stated period to permit discussion if the magnitude of the decision warranted it.
- The prospects of such innovations appear very slight in Australia at present¹⁷⁹.

178 Australian Law Reform Commission, *Access to the Courts I: Standing: Public Interest Suits*, also *Access to the Courts II: Class Actions*, *op. cit.*

179 Fisher D., *Environmental Law in Australia*, *op. cit.*, pp. 87-90 and pp. 142-158.

Insofar as the Precipitous Bluff case is concerned, it is important to note that the objectives of the conservationists gradually changed as they pursued their case through the courts. At the Mining Warden's hearing, the primary aim of the environmentalists was to prevent the occurrence of exploration activities. Following the success of the first Supreme Court appeal by Mineral Holdings (the Nettlefold judgment), the objective became the establishment at law of amenity rights, or public interest in the management and usage of public lands. About the same time it became clear that a judicial examination of the Mining Act was needed if appropriate amendments to the Act were to be devised. Last but not least, the conservationists hoped that the delaying procedures of court action would permit time to be bought to secure Precipitous Bluff within the South-West National Park. The latter objective was ultimately achieved but only at the expense of wilderness attrition in the Hartz Mountains National Park¹⁸⁰.

One of the most disappointing aspects of the Precipitous Bluff judgment was the apparent failure of the Tasmanian conservation movement to learn from it in any substantial way. Having achieved incorporation of the region into the South-West National Park, perhaps there was a tendency to relax; but the High Court judgment imposed costs of nearly \$17,400 on the Tasmanian Conservation Trust Inc. and made imperative the need for sustained lobbying to achieve major amendments to the State Mining Act. The Trust subsequently claimed that such revisions were being formulated but they have yet to appear in any substantive form¹⁸¹. Instead, the Trust reacted in an ad-hoc manner to minerals exploration applications as they appeared, lodging objections with the Department of Mines or sometimes appearing in Mining Wardens' courts, only to have locus standii refused because of the High Court ruling.

180 Harwood C., 'The Precipitous Bluff Hartz Swap', in Gee H., and Fenton J. (Eds.), *The South West Book : A Tasmanian Wilderness*, op. cit., pp. 203-204.

181 Some comments have appeared in the Trust's Newsletter and in correspondence with the State Government, but no completely revised draft of the Mining Act has been submitted for consideration.

While the primary lesson of the Precipitous Bluff case might appear to be that environmental litigation is costly, time-consuming and unlikely to prove successful for environmentalists, and moreover that the High Court judgment is a successful precedent in favour of developers, the end product of the case is far more complex. Not only has the Tasmanian Department of Mines taken more care over the screening of licence applications since the Precipitous Bluff case, but it has also imposed environmental guidelines which, although not fully enforced, are an improvement on previous regulations in stating aims and operational methods. The Department of Mines also now negotiates directly with conservation groups to secure conditions acceptable to all parties¹⁸².

In any event, it cannot be claimed that environmental litigation by conservationists has totally failed in Australia. Although powerful obstacles exist against the granting of legal standing, all the traditional remedies of prerogative writs await further exploration and testing, and the mere threat of litigation as a delaying tactic is available if circumstances fully warrant it. Conservation groups appear to be deterred by litigation except as an expensive last resort, but nonetheless there is little doubt that court action will continue to be selectively employed in the future.

PART D : PROSPECTIVE REFORMS

6.9 AUSTRALIAN LAW REFORM COMMISSION PROPOSALS

From the foregoing discussion it is clear that eco-activists may be strongly advised to engage only in selectively chosen forms of litigation, where there is some prospect of achieving decisive legal breakthroughs, instead of attempting to use the courts as a general deterrent and hindrance to developers¹⁸³. On the whole, the environmental movement appears to

182 Such negotiations do not always result in mutual agreement, but at least a dialogue is maintained and stronger environmental safeguards are gradually being developed. In late 1980 the Premier requested the Mines Department to revise exploration guidelines in consultation with the National Parks and Wildlife Service, Department of the Environment and the South West Tasmania Committee.

183 As noted earlier, Professor Sandford Clark has expressed this view to environmental groups (see Clark S.D. 'Conservation and Government : Towards an Understanding of Roles', *op. cit.*).

lack sophisticated knowledge of legal strategies or grounds for action and therefore should rely upon external guidance from community institutions experienced in the law, anxious to protect individual rights or discern the public interest¹⁸⁴. One such body is the Australian Law Reform Commission which has published a number of discussion papers on legal issues and judicial innovation, including advocacy for improved access and locus standii in class actions and public interest suits¹⁸⁵.

Following detailed examination of local needs and overseas practice, and consideration of the case against improved standing, the Commission has published three options for public consideration:

- (i) An 'open-door policy' allowing any person to take proceedings in the public law arena, relying upon the deterrent of legal costs to limit actual cases to those where acute concern is felt;
- (ii) A 'screening mechanism' to filter intending plaintiffs, as part of the determination of a case. This really means adapting 'standing' requirements to particular circumstances and permitting access to the courts only where the public interest is sharply in question; and
- (iii) A 'preliminary screening' procedure, whereby the bona fides of intending litigants would be determined in advance of the substantive issues, either by a court or an administrative tribunal or official. ¹⁸⁶

The Commission appears to favour the first and second proposals in preference to the third, arguing that the disadvantages of a preliminary

184 Hundloe T., 'Heads They Win, Tails We Lose: Environment and the Law', in Wilson P., and Braithwaite J., (Eds.), *Two Faces of Deviance*, University of Queensland Press, Brisbane 1974, pp. 132-160.

185 See transcripts of evidence to hearings of the Law Reform Commission in 1979-80, following the publication of the discussion papers on Standing and Class Actions earlier referred to.

186 Australian Law Reform Commission, *Access to the Courts I : Standing: Public Interest Suits*, *op. cit.*, pp. 16-18.

screening procedure outweigh its usefulness in preventing vexatious litigation¹⁸⁷. Working Paper I also examines standing in civil litigation through statutory appeals, as well as standing in criminal proceedings through private prosecution. Overall the Law Reform Commission summarises its philosophy thus:

' These considerations incline the Commission towards the view that the best solution would be . . . a single standing formula empowering the court, in all public interest matters, to reject action on standing grounds as part of the determination of the suit, if satisfied that the plaintiff has no real concern with the issues.' 188

In effect this would be an 'open door policy', subject only to the proviso that the court could reject action if it considered that vexatious litigation was occurring. This is a positive approach and was well argued in the discussion paper but no one, least of all the environmentalists, appears to have taken up the Law Reform Commission's suggestion. There is no indication as to whether the concept has gained acceptance or whether implementation is being attempted¹⁸⁹.

More vocal response greeted the second discussion paper on Class Actions. After exploring overseas experience, particularly American practice, the Commission questioned whether it was feasible to develop an Australian procedure and decided that it was¹⁹⁰. Predictably, opposition emanated from the Real Estate Institute of Australia, chambers of commerce and used-car salesmen, who argued that defence of their products would prove a financial burden. Muted support for class actions came from consumer groups and some conservationists, but did not gain as much media publicity as the industry spokesmen. There the matter rests, as it has subsequently been claimed that expansion of consumer protection laws offsets the need for new class actions in the courts¹⁹¹. This appears to be a superficial

187 *Ibid*, pp. 19-20.

188 *Ibid*, p. 20.

189 Lawyers have shown little interest in reform, perhaps because they consider it impracticable to achieve in the short term. One might have expected some advocacy for change.

190 Australian Law Reform Commission, *Access to the Courts II : Class Actions*, *op. cit.*, pp. 34-35.

191 The Law Reform Commission does not agree with this interpretation. See transcripts of public hearings in 1979-80, following publication of the discussion paper.

assessment, but eco-activists have failed to pursue the matter diligently or to proclaim an alternative viewpoint. It is reasonable to conclude that Australian conservationists have flirted with environmental law but have not understood its complexities or exploited its potentialities. A further criticism must be that even if improved standing were granted or achieved, it would merely reinforce a system geared to the redress of injury after the event, instead of prevention of environmental attrition. The real need is for procedures which will impose environmental constraints at the beginning of projects rather than attempting to rectify damage or offering compensation after injurious action has occurred.

6.10 ENVIRONMENTAL ARBITRATION : THE NEW SOUTH WALES PLANNING AND ENVIRONMENT COURT

Legislation recently introduced in New South Wales attempts to redress some of the deficiencies earlier outlined¹⁹². The basic concept is of individual standing for every citizen in environmental and planning matters, and a court system with independent assessors who attempt to arbitrate disputes before they amount to litigation. The purpose is to prevent and solve conflict, but with the full authority of a superior court in reserve if legal judgments are absolutely required. It is too early in the life of this system to forecast whether it will function effectively, but so far the procedure appears to be working well with little recourse to environmental litigation. In order to understand the system it is necessary to provide further details.

The New South Wales Environmental Planning and Assessment Act of 1979 not only provides development control but also makes provision for a variety of statutory planning instruments, such as local government plans, regional plans and State planning policies, as well as programme plans and issue plans¹⁹³.

192 New South Wales Environmental Planning and Assessment Act 1979 and the Land and Environment Court Act 1979.

193 NSW Department of Environment and Planning, *Development Control*, Sydney, September 1980; (note the change in title of the Planning Commission to Planning Department in 1980).

In theory, at least, development proposals may be analysed and regulated in a number of ways, gaining flexibility in approach and treatment depending upon circumstances. In addition, there is provision for environmental impact statements, commissions of inquiry, public consultation and advisory committees on such matters as protection of coastal lands and various regions of the State¹⁹⁴. Perhaps the most interesting provision is the establishment of a Land and Environment Court in which all citizens automatically possess 'standing'¹⁹⁵. Appeals may be addressed to the Court on any decision relating to development permission, within twelve months of such decision. Citizens may make written objections to new proposals and lodge an appeal within twenty eight days of any decision, subject to no right of appeal on planning instruments formally approved by the Minister. Objections may be based upon breach of procedures or development actions inconsistent with conditions attached to approval. Requests for public inquiries must be granted by the Minister in some circumstances, but in any event public inquiries will normally be conducted for a variety of purposes, subject to some discretion by the Minister and Director of the Department of Environment and Planning¹⁹⁶.

Although comprehensive, such a system may appear unduly complex and likely to bewilder the citizen, but the essence of the New South Wales approach is to provide a flexible means of analysis of development proposals, while simultaneously attempting to defuse conflict and arbitrate through consultative processes long before a dispute requires legal resolution¹⁹⁷. For this purpose the Land and Environment Court deploys a number of 'assessors' whose task is to investigate complaints and appeals promptly so as to avoid delays in development, and yet provide an avenue of relief

194 NSW Planning and Environment Commission, *A Guide to the Environmental Planning Legislation*, Sydney, June 1980.

195 NSW Department of Environment and Planning, *Citizens' Rights*, Sydney, September 1980.

196 *Ibid*, p. 6.

197 NSW Department of Environment and Planning, *The NSW Planning System*, Sydney, September 1980.

for aggrieved citizens. In many instances, a court judgment may be avoided by a compromise being reached through conciliation procedures. However, the Land and Environment Court is a superior court, and if forced to decision no appeal exists other than to the Supreme Court of New South Wales on points of law¹⁹⁸. Critics of the system have argued that open 'standing' would result in a floodgates situation, but in the limited life of the Court there is no evidence to support this contention; indeed, the 'assessor' system seems to be working well. More experience is required before a verdict can be reached about the viability, merits and demerits of the entire system, but it virtually amounts to interposing an administrative review, with legal redress as a last resort. The principle of open 'standing' is an important precedent in Australia and will be watched with interest by people in other States.

6.11 CONCLUSIONS

The material contained in this Chapter demonstrates that conservationists face formidable obstacles within the Australian jurisdiction in attempting to use the courts for judicial redress of environmental grievances. Not only is the legal system currently designed to protect pecuniary private interests rather than community amenity, but it is extremely difficult for any individual or group to gain 'standing' in the public interest. Despite these difficulties, conservationists will continue to turn to the courts as a last resort when all else fails, hence environmental litigation will persist and may even escalate in the future.

Thus far the environmentalists have not been very selective about the circumstances in which they choose to act as plaintiffs; indeed legal redress has been sought largely on an ad-hoc basis, depending on the circumstances. It would be unjust to claim that in most instances the eco-activists drifted into litigation but there appears to have been little comprehension of the complexities and limitations of environmental law.

198 *Ibid*, p. 3.

It is unlikely that decisive legal breakthroughs will be achieved if conservationists persist in such haphazard tactics; indeed protracted and expensive case experimentation may well prove inescapable. The time and prospective cost of judicial processes acts as a powerful deterrent to litigants, nonetheless resort to law has one positive benefit for eco-activists: it captures public and political attention and it buys time in which to lobby for environmental objectives. 'Time purchase' proved decisive in the Precipitous Bluff case, but many commentators would prefer the adoption of other procedures rather than resort to the courts. Environmental impact statements (EIS) are one suggested alternative; their merits and demerits are examined in the next chapter.

CHAPTER SEVEN

FEDERALISM AS LEVERAGE : THE FRASER ISLAND DISPUTE

PART A : ENVIRONMENTAL IMPACT ASSESSMENT : AIMS AND ISSUES7.1 INTRODUCTION

Australia is a federal nation with eight near-sovereign governments and a wide range of private and community institutions¹. It has taken conservationists a considerable period of time to recognise that intergovernmental relations might be employed as leverage in enforcing environmental reform. Although there are a variety of tactics prospectively available under this rubric, primary attention has been focussed on means of constraining public authorities and private corporations from causing serious attrition of the natural heritage. One attempt to mitigate the prospective damage of new development projects on fragile eco-systems is the adoption of environmental impact assessment techniques during project evaluation².

It is claimed that environmental impact statements (EIS) enable one to predict potentially harmful or beneficial effects of projects on human activities or ecological settings and thus help devise management procedures and guidelines which will minimise ecosystem modification or disturbance³. Most western governments now require the preparation of EIS whenever major projects are contemplated, but environmentalists show some ambivalence about the merits or otherwise of this requirement. On one hand, the conservationists applaud the opportunity to identify and discuss potential environmental modifications before they occur; but many eco-activists believe that EIS procedures are a mere token exercise to

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- 1 Holmes J., and Sharman C.G., *The Australian Federal System*, Allen and Unwin, Sydney, 1977; Richardson J., *Patterns of Australian Federalism*, Centre for Research on Federal Financial Relations, Australian National University, Canberra, 1973.
 - 2 O'Riordan T., and Hey R., (Eds.), *Environmental Impact Assessment*, Saxon House, Farnborough, Hants., 1976; Rosen J., *Manual for Environmental Impact Evaluation*, Prentice-Hall, Englewood Cliffs, N.J. 1976.
 - 3 Munn R., (Ed.), *Environmental Impact Assessment : Principles and Procedures*, Scope Report No. 5, Toronto, 1975; Burchell R., and Listokin D., *The Environmental Impact Handbook*, Centre for Urban Policy Research, New Brunswick, N.J., 1975.

delude the public into believing that environmental care will be taken. It is frequently claimed that EIS content and procedures are superficial, that the technique is used merely to buttress the claims of developers and that enforcement of approved EIS guidelines does not genuinely occur in practice⁴.

In Australia, the introduction of environmental impact assessment procedures has widened the debate on development proposals, but it is doubtful whether major improvements in environmental management have actually resulted⁵. There have been isolated instances where federal EIS legislation has been used by conservationists as a lever to try to force State authorities to meet minimal environmental safeguards, but to little avail, apart from one spectacular success in the Fraser Island case, which is described later in this Chapter⁶. Even in the Fraser Island case it is a moot point as to whether external factors, rather than the EIS concept, were the principal catalysts for conservation. In this Chapter we shall explore the use of EIS guidelines as a means of influence on resource management practices and note some of the obstacles to effective implementation of environmental impact assessment as a technique of analysis and enforcement.

The idea of comprehensive assessments of the less easily measured environmental impacts of proposed policies, programmes and activities, originated in the United States with the National Environmental Policy Act (NEPA) of 1969, especially Section 102 (2)(c)⁷. NEPA was drafted as an

4 Westman W., 'Environmental Impact Statements : Boon or Burden?', *Search*, Vol. 4, No. 11-12, Nov.-Dec. 1973, pp. 465-470.

5 Formby J., *Environmental Policy Review and Project Appraisal - The Australian Experience*, Centre for Resource and Environmental Studies, Australian National University, Canberra, 1979.

6 Gilpin A., *The Australian Environment : Twelve Controversial Issues*, Sun Books, Melbourne, 1980, Chapter 5.

7 Ruckelhaus W., 'Environment Protection in the United States', in *Environmental Law : The Australian Government's Role*, (Attorney-General's Department, Canberra, 1974), Australian Government Publishing Service, Canberra, 1975, pp. 5-15.

administrative statute, in the sense that it required all U.S. federal agencies to 'take into account' the wider and longer-term consequences of their proposed actions on nature ecosystems, even those remote from the initial site⁸. Following implementation of the Act on 1 January 1970, a number of American States and subsequently various European nations became interested in adapting some of the principles of NEPA to their own jurisdictions, making limited modifications to suit local political cultures and planning procedures⁹. Environmental protection legislation was first introduced into various Australian States in the early 1970s and subsequently a federal Act was passed in 1974¹⁰.

What was perhaps never envisaged by the originators of the Australian statutes was that their legislation might be used by conservationists to open up project evaluation to wide public scrutiny, or to set one level of government against another within the federal system, in order to safeguard scenic assets, or to prevent development projects deemed detrimental from proceeding¹¹. In general the Australian legislation is weak, nonetheless environmentalists view it as crucial in providing one of the few legitimate means of challenging resource exploitation proposals before environmental attrition occurs and high remedial costs are imposed. One of the key questions to be posed is whether eco-activists truly understand the characteristics and purpose of EIS, or whether they have merely seized upon the technique as an apparently useful tactic to impede entrepreneurs and public authorities, irrespective of likely consequences for the remainder of society.

8 Meyers S., 'U.S. Experience with National Environmental Impact Legislation' in O'Riordan T., and Hey R., (Eds.), *Environmental Impact Assessment*, *op. cit.*, pp. 45-56.

9 O'Riordan T., and Hey R., (Eds.), *op. cit.*, *passim*.

10 Commonwealth of Australia, Environmental Protection (Impact of Proposals) Act, December 1974. (No. 164 of 1974).

11 This has not occurred in the United States, hence there was an assumption that it was unlikely to occur in Australia. Constitutional, legal and administrative differences exist between the Australian and American governmental systems.

7.2 BASIC ENVIRONMENTAL IMPACT ASSESSMENT TECHNIQUES

Edmunds and Letey view environmental impact assessment as a reaction against cost-benefit analysis, e.g. as an attempt to move beyond narrow notions of economic efficiency, to assess the potential ecological impact of proposals and associated utilities and disutilities¹². But herein lies the rub. Any attempt at comprehensive identification and quantification of ecosystem dynamics and social indicators involves considerable expertise, manpower and financial resources, as well as extensive time-horizons; while the multitude of variables prospectively encompassed almost defies codification and involves interdependencies difficult of explication¹³. There is also the methodological quandary of attempting to clearly separate human and natural resource system elements, when the EIS technique was never really intended to incorporate social factors¹⁴. Inevitably, simplifications have to occur, in which case one is relying entirely upon the integrity and professional judgments of technical officers or consultants responsible for EIS preparation. As demonstrated in Chapter 4 of the thesis, there are considerable dangers in such dependence.

In studying EIS practice, two matters need to be considered:

- (i) procedures for compilation and assessment; and
- (ii) the actual content of EIS reports

Within the United States, environmental litigation in the courts has enforced careful preparation of EIS, but in other nations guidelines are often vague and it is largely left to prospective developers and their consultant analysts to determine format and content. There is no agreed methodology of compilation or assessment, although some implicit consensus

12 Edmunds S., and Letey J., *Environmental Administration*, *op. cit.*, Chapter 17.

13 Huebner L., and Paul C., 'The Assessment of Environmental Quality' in O'Riordan T., and D'Arge R., (Eds.), *Progress in Resource Management and Environmental Quality*, Vol. 1, Wiley and Sons, London, 1979.

14 Abelson P., *Cost-Benefit Analysis and Environmental Problems*, Saxon House, Farnborough, Hants, 1979.

about standards is tending to emerge as increased experience of the technique accumulates¹⁵.

Two of the more commonly recognised approaches are the Leopold matrix system (U.S. Geological Survey) and the Batelle ranking method¹⁶. The former involves preparation of cross-tabulations of various ecological situations, alternative layouts of the project and prospective magnitudes of 'modification of regimes'. Explicit ordering of variables permits debate about impacts and implications, but in theory there can be nearly 8900 cells in the matrix, hence considerable room for disagreement exists as to key variables and likely magnitudes¹⁷. The Batelle ranking method involves four categories (ecological, physical, aesthetic and social), divided into components and subject to weighting. The key problem again is content, since data is sometimes scarce, quantification doubtful and long-term implications hard to predict or quantify¹⁸.

In Australia, 'rational' methods such as the Leopold matrix and Batelle ranking systems are often abandoned in favour of a descriptive text, which is easier to interpret by laymen, but may be subject to loose terminology and subjective window-dressing. These difficulties may be offset in some degree by the use of associated techniques such as materials balance or dispersion models; moreover the EIS can be supplemented and supported by special socio-economic studies, such as regional input-output analyses and employment multipliers, income redistribution assessment, trade-off and sensitivity analyses and marginal cost calculations¹⁹. Yet the end result may be a somewhat unsatisfactory mix of cost-benefit analysis, environmental impact assessment and social investigation in which a host of variables are independently evaluated, but which does not

15 For discussion of some approaches see Ditton R., & Goodale T., *Environmental Impact Analysis : Philosophy & Methods*, Univ. of Wisconsin Press, Green Bay, 1972.

16 Edmunds S., and Letey J., *op. cit.*, Chapter 17.

17 Leopold L., Clarke F., Hanshaw B., & Balsey J., *A Procedure for Evaluating Environmental Impact*, U.S. Geological Survey Circular 645, U.S. Geological Survey, Washington, D.C., 1971.

18 Dee N. et.al., *Environmental Evaluation System for Water Resource Planning*, (Batelle Institute) republished in *Water Resources Research*, (United States), Vol. 9, No. 3, 1973.

19 Edmunds S., & Letey J., *op. cit.*, Chapter 17, pp. 328-336.

easily synthesize into any cohesive or dynamic array of options and implications. In any event, the EIS component may well suffer from a variety of internal weaknesses:

- (i) no standardised format or list of variables which should (or must) be included;
- (ii) in theory the studies may be prepared by anyone (no identified expertise or accountability);
- (iii) the prospect of biased evaluation (selective use of evidence or arbitrary abandonment of environmental options by consultants or developers);
- (iv) highly selective judgments about key variables, weighting and forward estimation; and
- (v) no sanctions for incorrect statements. Decisions are often based more upon promise than prescription. 20

As Fisher and Davies point out, factorial listing of ecological characteristics does not suffice; dynamics over time and potential social impact (consequences of decision) need to be thoroughly investigated, but are often ignored in favour of static resource inventories and ecosystem assessments²¹. Linkages also require explication, hence Fisher and Davies advocate sequential investigation commencing with baseline studies prepared by interdisciplinary teams, followed by a compatibility matrix of likely impacts, identification of time-phased implications and a decision matrix outlining options and penalties. This is ideal counsel, but in practice the tendency is to prepare an EIS prior to the project, with little enforcement during construction and little or no follow-up through ex-post evaluation²². Many commentators have noted the dangers of rapid initial appraisal and enforcement difficulties when no judicial redress exists. All discussants stress that social impact analysis is every bit as essential as ecological investigation, but unfortunately no guidance is provided as to where the limits of analysis should be drawn²³.

20 Brooks E., 'On Putting the Environment in its Place: A Critique of EIA' in O'Riordan T., & Hey R., (Eds.), *op. cit.*, pp. 167-178.

21 Fisher D., and Davies G., 'An Approach to Assessing Environmental Impacts', *Journal of Environmental Management*, Vol. 1, 1973, pp.207-227.

22 Dunphy M., 'The EIS and the Public' in *The EIS Technique*, Australian Conservation Foundation, Melbourne, 1975, pp. 53-60.

23 Kapp K., 'Environmental Disruption and Social Costs: A Challenge to Economists'. *Kyklos*. Vol. 23. 1970. p.833 *et. seq.*

These are considerable difficulties generally unperceived by the layman, but it is important to remember that the basic concept of environmental impact assessment appears to be sound and as the technique is still in its infancy, improvements can be expected. A useful starting point is to catalogue and evaluate experience so far, in order to identify whether eco-activists are likely to be able to contribute to helpful reforms.

7.3 SOME OPERATIONAL PROBLEMS

Given the considerable practical experience of EIS procedures which has now accumulated in various jurisdictions, but particularly in the United States, it is not surprising that a large body of literature has developed, not only providing a useful critique of the technique itself, but raising important issues about decision-making in democratic societies²⁴. In general, this comment has emanated from academic research, but environmentalists have also recorded their perspectives and identified needed reforms. Meyers is quite emphatic that the only reason EIS procedures have proven effective in the United States is because the courts have enforced the legislation; an intimation that reliance upon government regulatory authorities has proven inadequate²⁵. Hammer, commenting on European Economic Community (EEC) guidelines, makes the same point; resistance has been experienced from government departments and virtually all private enterprise, therefore progress is slow, in particular because of financial and organisational difficulties. Hammer notes further hesitancy within government due to fears that EIS procedures will clash with trade-competitiveness, economic growth or other development policies²⁶. In an inter-regional

24 See, for example, Enk G., *Beyond NEPA : Criteria for Environmental Impact Review*, Institute for Man & Science, New York, 1973; Warner M., & Preston E., *Review of Environmental Impact Assessment Methodologies*, Environment Protection Authority, Washington, D.C., 1974; United States Council on Environmental Quality, *Annual Reports on Environmental Quality* (Yearly), U.S. Government Printing Office, Washington, D.C.

25 Meyers S., in O'Riordan T., and Hey R., (Eds.) *op. cit.*, pp. 45-56.

26 Hammer D., 'EEC Guidelines for Environmental Impact Assessment' in O'Riordan T., & Hey R., (Eds.), *op. cit.*, pp. 35-44.

and international context it is apparent that where ecological systems overlap administrative boundaries, shared environmental problems are not easily adjudicated, especially where cost burdens are imposed. It is sometimes feasible for environmental problems in one jurisdiction to be transmitted to another, as time-phased impacts accrue elsewhere within the socio-economic system, e.g. downstream of a particular river development project. Legislative and bureaucratic institutions are simply not well equipped to handle such problems²⁷.

Conservationists seem less concerned about these 'diplomatic' and 'transmitted' aspects of environmental impact assessment, than whether the technique is faithfully applied and rigidly enforced within national boundaries. Their queries are reinforced by a number of academic researchers and practitioners who are concerned about the room for evasion and misrepresentation in environmental impact assessment procedures²⁸. We may paraphrase and condense the various quandaries and criticisms to formulate the following issue elements:

- (i) Is the aim environmental protection or environmental regulation (control)? (i.e. are we more concerned about the promulgation of general principles of environmental amenity or prepared only to intervene to the extent of limiting or preventing particular forms of environmental attrition?);
- (ii) Who should carry out environmental impact assessments and who should review and enforce such provisions?
- (iii) If there are significant weaknesses in current practice, is this due to deficiencies in the technique itself, the guidelines under which assessment occurs, or evaluation procedures in field and office?
- (iv) What criteria can be used to determine the adequacy or otherwise of EIS and what provisions should exist for public participation and reviews or appeal?
- (v) What sanctions should exist if non-compliance is identified?²⁹

27 Ostrom V., 'The Water Economy and its Organization', in Thompson D., (Ed.), *Politics, Policy and Natural Resources*, *op. cit.*, pp. 376-395.

28 O'Riordan T., 'Beyond Environmental Impact Assessment' in O'Riordan T., and Hey R., (Eds.), *op. cit.*, pp. 202-221.

29 Westman W., 'Environmental Impact Statements: Boon or Burden?', *op. cit.*, pp. 467-470.

These queries from eco-activists and practitioners are paralleled by other issues raised by academic contributors such as Greenberg and Hordon, who list six misgivings about current EIS procedures:

- (i) Is there adequate information available for identifying the potential variety and extent of ecological impacts, both long term and short term?
- (ii) Can we rely upon the developer's assessment of prospective damage or prevention?
- (iii) Who specifies the options and implications?
- (iv) Development patterns are often complex and timespread; how subtle are the interrelationships which are examined?
and
- (v) Can decision-makers (or courts of appeal) weigh the various values and orientations effectively? 30

Greenberg and Hordon believe there are grounds for pessimism on all these matters, hence they argue that current EIS procedures are largely ineffectual, tending to mislead the public into thinking environmental attrition will be prevented. Greenberg and Hordon do not see any easy escape from this situation, apart from radical restructuring of decision processes within government, which may not be easily achieved, and in any case would still involve considerable reliance upon the value judgments of various professionals.³¹

D'Amato and Baxter are more positive when they argue that primary ethical considerations for EIS procedures lie with the government agencies responsible for framing guidelines and ensuring enforcement as upholders of the public interest³². D'Amato and Baxter avoid the issue of whether political will exists to pressure public authorities to discharge their responsibilities; instead they examine other questions in considerable

30 Greenberg M., and Hordon R., 'Environmental Impact Statements: Some Annoying Questions', *American Institute of Planners Journal*, May 1974, pp. 164-175.

31 *Ibid*, pp. 173-175.

32 D'Amato A., and Baxter J., 'The Impact of Impact Statements upon Agency Responsibility: A Prescriptive Analysis', *Iowa Law Review*, Vol. 59, No. 2, December 1973, pp. 195-250.

detail in order to examine the role of government agencies in environmental impact assessment procedures:

- (i) Is full disclosure of options and implications assured?
- (ii) Are all the alternatives identified anyway and what is the reliability (or otherwise) of evidence?
- (iii) What ultimate degree of feasibility of environmental protection exists?
- (iv) Are there adequate prospects of public review of the options?;and
- (v) Does any government agency ever say 'no' to development?

Like Greenberg and Hordon, D'Amato and Baxter are somewhat pessimistic about the prospects of adequate enforcement, even if appropriate guidelines are developed, arguing that public regulatory agencies tend to develop special relationships with their clients and may not possess sufficient powers of enforcement anyway³³.

In summary it would appear that a number of analysts and critics regard the EIS technique as useful, but suffering from internal weaknesses, inadequate enforcement and providing only limited opportunities for public comment or independent review. The question arises as to whether these operational difficulties are substantial, or negate the prospect of environmentalists using the technique to identify problems in resource management practices and environmental protection. Not all commentators would agree that the situation is beyond redemption, indeed writers such as Sewell, Gilpin and Fenner believe there are grounds for optimism about improvements in the EIS technique, as well as the procedures by which community decisions are reached³⁴. They do not under-estimate the

33 *Ibid*, pp. 242-246.

34 Sewell W.R.D., 'Perceptions, Attitudes and Public Participation in Countryside Management in Scotland', *Journal of Environmental Management*, Vol. 2, 1974, pp. 235-238; Gilpin A., *Environmental Policy in Australia*, *op. cit.*; Fenner F., 'Environment Impact Assessment: History, Rationale and Methodologies', paper presented at ANZAAS Congress, January 1975.

difficulties, but point towards consistent improvements in methodology and application in recent years, arguing that there are at least five areas in which advances have been achieved and may be further sought:

- (i) Definition of the boundaries of the study;
- (ii) Identification of likely impacts;
- (iii) Prediction of magnitude of impacts;
- (iv) Evaluation of implications of projects; and
- (v) Communication with decision-makers and the public.³⁵

Environmentalists are less convinced of the prospects and argue that the necessary conditions for environmental reform are not only largely absent in Australia, but are unlikely to eventuate, given the current power distribution within society³⁶. The conservationists do not shrink from attempted reform, but expect it to prove a long and difficult assignment. Given the many claims and counter-claims about EIS procedures, this judgment needs to be tested against real-world experience to date. In passing, it is worth noting that when the National Environmental Policy Act (NEPA) was passed in the United States in 1969, legislators regarded the statute as uncontroversial and a nice token gesture to placate eco-activists³⁷. Subsequently, in each jurisdiction, environmental protection legislation has produced more substantial implications than originally anticipated and even in Australia, the full ramifications are probably not yet apparent³⁸.

35 Formby J., *Environmental Policy Review and Project Appraisal: The Australian Experience*, *op. cit.*, pp. 49-58.

36 Mosley J.G., 'Environment Impact Assessment and Conservation in Australia', *Search*, Vol. 7, No. 6, June 1976, pp. 267-272.

37 Sax J.S., *Defending the Environment : A Handbook for Citizen Action*, *op. cit.*, Chapter 4.

38 O'Riordan T., and Hey R., (Eds.), *Environment Impact Assessment*, *op. cit.*, *passim*.

PART B : SOME LESSONS OF EXPERIENCE

7.4 AMERICAN EXPERIENCE OF EIS

Environmental impact assessment in other parts of the world is often compared with American practice, since the National Environmental Policy Act (NEPA) of 1969 was in some respects a pioneering piece of legislation; moreover considerable experience has now accumulated about interpretation and implementation of the Act³⁹.

The legislation forces all U.S. federal agencies to undertake certain activities aimed at identifying the environmental implications of proposed development actions. The key clause is S102(c) which requires all authorities to:

'... include in every recommendation or report on proposals for legislation and other major federal actions significantly affecting the quality of the human environment, a detailed statement by the responsible official on:

- (i) the environmental impact of the proposed action;
- (ii) any adverse environmental effects which cannot be avoided should the proposal be implemented;
- (iii) alternatives to the proposed action;
- (iv) the relationship between local short-term use of the environment and the maintenance and enhancement of long term ecosystem viability; and
- (v) any irreversible and irretrievable commitments of resources which would be involved in the proposed action should it be implemented.' 40

NEPA applies to all federal government operations, including direct projects, programmes supported through grants, loans, licences, permits or other actions, and proposals before Congress and all federal regulations.

39 Johnson W., 'Environmental Litigation : Lessons from the Courts', *Civil Engineering*, American Society of Civil Engineers, Washington, D.C., January 1972, pp. 55-58.

40 Cullen P., 'The Development of Environmental Impact Statements' in McMaster J., and Webb G., (Eds.), *Australian Project Evaluation*, Australia and New Zealand Book Company, Sydney, 1978, pp. 96-108.

NEPA did not delegate prime responsibility for implementation to a specific administrative agency, although it created an Advisory Council on Environmental Quality, which later issued a series of guidelines for the preparation of EIS. (It is common to find statutes or policy decisions hurriedly 'interpreted' in this manner, often with unanticipated consequences and implications for the future)⁴¹. The significant weakness of the American legislation is that federal administrative agencies have individual responsibility to identify for themselves those projects which require EIS. After ostensibly complying with NEPA, the agencies remain free to determine their course of action, subject to the usual congressional mandate and oversight and the broad direction of the President⁴². NEPA does not grant the Council on Environmental Quality, the Environmental Protection Agency or any other authority, direct power to halt a federal project which contravenes NEPA provisions or guidelines. In large measure the Act relies upon self-policing, with each agency required to recruit appropriate environmental staff and expertise. In theory, after an agency has fulfilled the basic NEPA procedural arrangements, it is free to go ahead with action even if the EIS demonstrates a prospectively adverse environmental effect. The intention is that the agency will use the best available information to positively limit or reduce harmful impacts as much as possible⁴³.

Although such provisions may appear to be mere token gestures, there is an external force which constitutes a powerful incentive to execute each EIS competently and implement it thoroughly; that power lies with the courts where citizens and groups have a right to sue federal agencies to comply with NEPA. The scope of judicial review is broad-ranging and

41 Formby J., *Environmental Impact Assessment and the Decision-Making Process*, Centre for Resource and Environmental Studies, Australian National University, Canberra, 1978, pp. 15-22.

42 O'Riordan T., *Environmentalism*, *op. cit.*, pp. 282-292.

43 *Ibid.*, pp. 284-286.

has included preliminary agency determinations whether or not to prepare impact statements, and also the degree of thoroughness of preparation⁴⁴. To some extent the courts have also reviewed the actual consideration of environmental factors in decision-making (i.e. whether the information contained in the EIS was in fact given sufficient weight in policy formulation and administrative action), and in some cases have reviewed compliance of decisions with substantive requirements for environmental quality contained elsewhere in NEPA⁴⁵.

The strength and activism of the environmental lobby in the United States has also greatly contributed to enforcement of the Act, by litigation, by disclosure of evasion and general provision of explanatory information to the public, and by politicising environmental issues to a point where conservation coalitions have a strong influence on policy formulation and decision-making processes⁴⁶. A further contributing factor has been strong American support for freedom of information, which means that the provisions of NEPA for increased public involvement and disclosure of options have been generally well received. The tradition of open government and competing centres of research and opinion has usually meant that U.S. Government agencies have accepted change, albeit with some reluctance. The general trend has been towards open disclosure of options.

Because some clauses of NEPA are imprecise in phraseology, the legal system has been kept busy in interpreting and enforcing the Act. To aid clarification, many public authorities have issued guidelines about the format and content of EIS and general administrative procedures, as well as interpretations of some clauses, but some ambiguities and problems still remain. The technical staff preparing

44 *Ibid*, pp. 285-292.

45 *Ibid*, p. 286.

46 Petrulla J., *American Environmentalism : Values, Tactics and Priorities*, *op. cit.*, pp. 181-185.

EIS have not always had the breadth of skills needed, technical information has sometimes proved costly and difficult to assemble, and there has been a lack of agreed criteria by which to assess the relative significance of potential impacts⁴⁷. These administrative difficulties have sometimes increased the time and cost involved in project planning, but this problem is gradually being overcome as experience in the use of the technique accumulates.

In regard to the question of whether EIS requirements have achieved NEPA's goal of improved decision-making, the Council on Environmental Quality point to a number of projects where modifications or abandonment have occurred following environmental assessment⁴⁸.

Meyers argues that one of the prime benefits of the EIS procedure has been the 'weeding out' of unsatisfactory and uneconomical projects, but some other commentators are less persuaded although agreeing that other cumulative benefits flow from environmental impact assessment reports⁴⁹. Andrews, for example, notes that NEPA has raised the general national consciousness of environmental quality as well as improving the overall standard of decision processes in three ways: through the analysis of environmental information as it passes through the agencies originating the proposals, through review and comment by other government agencies and through the public availability of information in impact statements⁵⁰.

Other commentators such as O'Riordan and Johnson argue that significant benefits have accrued from the interdisciplinary nature of

47 D'Amato A., and Baxter J., 'The Impact of Impact Statements Upon Agency Responsibility : A Prescriptive Analysis', *op. cit.*, pp.227-233.

48 O'Riordan T., *Environmentalism*, *op. cit.*, pp. 286-288; United States Council on Environmental Quality, *Annual Reports on Environmental Quality*, (Yearly), Washington, D.C.

49 Meyers S., 'U.S. Experience with National Environmental Impact Legislation' in O'Riordan T., & Hey R., (Eds), *op. cit.*, pp.45-56.

50 Andrews R., *Environmental Policy and Administrative Change*, Lexington Books, Lexington, Mass., 1976, p. 36.

research teams with knowledge transfer between professions becoming a valuable means of cross-fertilisation of ideas and verification of basic assumptions and conclusions⁵¹. The EIS process has also acted as a catalyst to public involvement in decision-making, which some writers view as a positive antidote to bureaucracy and corporate power. Critics of NEPA are less enthusiastic about the latter aspect, claiming that environmental impact assessment procedures permit small groups of concerned citizens to block major public programmes. But independent academic observers argue that this happens infrequently in practice and is only likely to occur with doubtful programmes having a potentially major social impact⁵². It may be argued that care with such projects is warranted anyway, and that the lead times should be extensive and evaluation carefully structured. But in order to keep NEPA effective, there is a need for continued goodwill by federal agencies to ameliorate criticism from those constituents who may be affected by EIS decisions. Conflict resolution needs to be openly administered and quickly achieved in order to avoid unnecessary obstruction of important programmes. NEPA would seem to add to the accountability of government in the United States, but although much has been written about the preparation of EIS, far less is recorded about evaluation by responsible agencies. The latter aspect deserves improved public disclosure, as does identification of who receives the benefits and who ultimately pays the cost of particular decisions⁵³.

In attempting to summarise some of the major interpretive decisions of the U.S. courts regarding NEPA, the following points emerge:

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- 51 O'Riordan T., 'The Role of Environmental Quality Objectives in the Politics of Pollution Control' in O'Riordan T., & D'Arge R., (Eds.), *Progress in Resource Management and Environmental Planning*, Vol. 1, *op. cit.*, pp. 221-258; Johnson W., 'Environmental Litigation: Lessons from the Courts', *op. cit.*, pp. 55-58.
 - 52 Frieden A., *The Environmental Protection Hustle*, *op. cit.*, *passim*.
 - 53 Downs A., 'The Political Economy of Improving our Environment', in Bains J., (Ed.), *Environmental Decay*, Little Brown, Boston, 1973.

- (i) Environmental analysis should be built into the planning process from the beginning when there is still flexibility to consider the alternatives. In a 1975 U.S. court case it was stated:
- '. The EIS should be prepared late enough in the development process to contain meaningful information, but early enough so that whatever information is contained can practically serve as input to the decision-making process. In any event a draft statement must be prepared at least 90 days before the agency takes action.' 54
- (ii) The analysis required must be a systematic interdisciplinary one. Ideally, the action must be viewed in as broad a context as is practicable; for example, not only primary but secondary effects must be studied. If there are any related actions or significant developments in the vicinity, the agency should look at cumulative effects⁵⁵.
- (iii) The effects to be analysed include not only pollution but also effects on fish and wildlife, on vegetation and other natural areas, on groundwater recharge, and on all significant aspects of the quality of the natural environment. Also NEPA requires analysis of social environmental effects such as any impact on community living patterns or significant displacement or introduction of population⁵⁶.
- (iv) Federal agencies should make a concerted effort to identify alternatives which might mitigate adverse effects. One alternative which should be investigated is 'no action'. The courts

54 Talbot F., 'Environment Impact Assessment : Summary and Prospects', *Search*, Vol. 7, No. 6, June 1976, pp. 273-274; Dempsey S., 'The U.S. Experience with Environmental Impact Statements', AMAX Inc., New York, 1976.

55 White G., 'Environmental Impact Statements', *Professional Geographer*, Vol. 24, No. 4, November 1972, pp. 302-309; U.S. Department of the Army, *Handbook for Environmental Impact Analysis*, Department of the Army, Washington, D.C., 1975.

56 Gelpe M., and Tarlock A., 'The Uses of Scientific Information in Environmental Decision-Making', *Southern Californian Law Review*, Vol. 48, 1974, pp. 371-427.

have ruled that evaluation of options must be both broad and reasonable, even going beyond the authority of the agency to ensure that natural justice and the public interest are fully served⁵⁷. In general, these are idealistic homilies, but it is likely that acceptance of such principles would occur only gradually.

In reviewing the evolution of EIS practice since NEPA was introduced in 1969, Wichelman has identified four successive time phases in the implementation of environmental impact assessment in the United States:

- (i) The interpretive phase in which government agencies took the basic legislation and sought clarification of roles and policies, resisted implementation in some degree and questioned its applicability to their jurisdiction and activities;
- (ii) The formal compliance phase when administrative agencies took steps to meet formal requirements of the Act but, at least initially, procedural measures did not markedly affect the substantive decisions made;
- (iii) The integrated planning phase in which attention turned from procedural compliance to substantive implementation, through integration of environmental review activities within agency decision-making routines; and
- (iv) The programme planning phase in which environmental assessment was applied not only to specific projects but to broader social goals and priorities. 58

Wichelman was ambivalent as to which stage had been reached in U.S. practice, but argued that substantial benefits would not accrue until periods (iii) and (iv) were attained. He considered that it might take two years for an agency to reach the formal compliance stage and three years to enter the integrated planning mode. In other words,

57 Rosen S., 'Cost-Benefit Analysis, Judicial Review and the NEPA Act', *Environmental Law*, Vol. 7, 1977, pp. 363-381.

58 Wichelman A., 'Administrative Agency Implementation of the National Environmental Policy Act of 1969: A Conceptual Framework for Explaining Differential Response', *Natural Resources Journal*, Vol. 16, No. 2, April 1976, pp. 263-300.

implementation of EIS procedures required a moderately long time-horizon⁵⁹. The principal catalyst in the United States appears to have been the willingness of conservationists to test the NEPA legislation in the courts and force public agencies to apply the statute diligently. It is quite a different proposition in Australia, where access to the courts is not guaranteed and where ministers and officials exercise considerable discretionary power. There is an additional obstacle in the lack of uniformity of State and Commonwealth legislation which necessitates the examination of contexts, before deciding whether EIS provisions appear enforceable⁶⁰.

7.5 AUSTRALIAN EXPERIENCE OF EIS

(a) Commonwealth Provisions

In December 1974 the Australian Government's Environmental Protection (Impact of Proposals) Act became law. The Act permits the Minister for the Environment to require an EIS for any proposal likely to have a significant or controversial impact on the environment, but procedures under the Act allow for a wide range of ministerial and administrative discretion in implementation. Because of these wide discretionary powers, there appears to be only a limited role for the courts to play in interpreting and enforcing provisions of the Act. The principal effect is to create a framework for obtaining and reviewing information about the environmental consequences of proposed actions, but it is debatable whether the provisions are comprehensive enough to enforce disclosure of the major impacts and, if

59 Talbot F., 'Environmental Impact Assessment : Summary and Prospects', *op. cit.*, pp. 273-274.

60 Australian environmentalists have tended to focus on federal legislation, without adequately examining State provisions in their local jurisdiction.

identified, to regulate activities to minimise such impacts⁶¹.

As Formby notes, the minister administering the Act may make comments and recommendations to the parties involved, but he is given no direct power over decisions as to whether or in what form proposals will proceed. Indirect sanctions of a powerful kind do exist, but so far they have only been employed on rare occasions⁶². One of the major obstacles is the reluctance of the Commonwealth to interfere in the development activities of the States.

The Act applies only to projects conducted, funded, or regulated by the Commonwealth Government, or requiring its approval. This means that private sector activities and State and local government projects are not generally subject to the requirements of the Act, although some projects may be subject to approximately equivalent State legislation. Given the dependence of the States on federal specific purpose payments and Commonwealth Loan Funds, the limits of jurisdiction are not entirely clear; there would appear to be a *prima facie* case that a federal EIS could be demanded where only partial Commonwealth funding occurs⁶³. Obviously the niceties of intergovernmental relations intervenes; the Australian Government is understandably reluctant to interfere in what it judges to be State matters. Much turns on the politics of the period and whether the issue is assumed to be in the national interest⁶⁴.

61 Commonwealth of Australia, Environmental Protection (Impact of Proposals) Act 1974. For comment on its operation see Mosley J.G. 'The Assessment Process as it works within State, Provincial and Federal Governments', *op. cit.*, pp. 10-14.

62 Formby J., *Environmental Policy Review and Project Appraisal :The Australian Experience*, *op. cit.*, pp. 12-18.

63 Environmentalists have occasionally tried to press this point, but without much perseverance or conviction. The prospect remains that the principle could be invoked.

64 This provides little guidance to eco-activists as to favourable circumstances. Experimentation is required, but the environmentalists tend to be reactive rather than assertive, in pressing for Commonwealth intervention.

There are three main types of proposals which remain firmly subject to Commonwealth EIS legislation:

- (i) Construction projects, including roads, bridges, buildings, railways, airports, shipping terminals, regional growth centres and redevelopment schemes, defence facilities and sometimes industrial projects where these are funded wholly or in part by the Commonwealth;
- (ii) National policy initiatives, including the operation of supersonic transportation aircraft into Australia, changes in taxes, tariffs and subsidies, Australian participation in international agreements, changes in the levels of protection afforded different industries where these are the constitutional responsibility of the Australian government;
- (iii) Export and import proposals, including foreign capital inflow and outflow, minerals, woodchips and some primary products where these require Commonwealth approval. 65

The Commonwealth Environmental Protection (Impact of Proposals) Act 1974-75 falls into three main parts. Sections 1-5 deal with definitions, the object of the Act, and the range of matters to which it applies. Sections 6-10 provide for the preparation of separate administrative procedures setting out detailed requirements for EIS, and Sections 11-24 deal with provisions for public environmental enquiries. The provision for separate administrative procedures for environmental impact assessment allows for improved flexibility, because such procedures may be changed without undergoing the full parliamentary process for legislative amendment. The administrative procedures were promulgated in July 1975⁶⁶. In assessing these matters, some key questions concerning both the Act and the Procedures are as follows: What is their objective? What is the extent of their application? Under what circumstances is an EIS required? What should an EIS contain? How is the EIS reviewed? What are the

65 Cullen P., 'The Development of Environmental Impact Statements', in McMaster J., and Webb G., (Eds.), *Australian Project Evaluation*, op. cit., pp. 96-108.

66 Formby J., *Environmental Policy Review and Project Appraisal : The Australian Experience*, op. cit., pp. 12-13.

provisions for public involvement? Under what circumstances is a public inquiry held? How are the findings of EIS and public inquiries to be applied? These are all matters pertinent to eco-activism, but Australian conservationists do not appear to have investigated the various aspects in any detail.

What are the provisions and how might they affect environmentalism? In examining the Act, the first point to note is that the stated 'object' of the Act (S5.1) is '. . . to ensure to the greatest extent that is practicable, that matters affecting the environment to a significant extent are fully examined and taken into account . . . in relation to specified activities.'⁶⁷ The limited nature of this objective is worth noting. There is no requirement that projects should be environmentally sound or meet substantive environmental criteria, merely that the environmental consequences of proposed actions are fully considered. Given the potentially wide range of application to projects, one must look to the Procedures for detail as to when and how an EIS is required. In simplified form, the main steps of the Procedures are as follows:

- (i) The minister of any Commonwealth authority responsible for what potentially appears to be an environmentally significant project ('the action minister') designates the proponent (person or department) responsible for the proposed action. (Procedures 1.2.1 and 1.2.2);
- (ii) The proponent submits a 'Notice of Intention' to the Minister for the Environment, setting out specified information about the project, including any planning already undertaken, the options available and potential environmental implications, any standards or safeguards intended to be adopted, and any studies in progress to identify environmental impact. This data must be submitted '. . . as soon as possible after a proposed action has been first formulated.' (Procedure 2.1);
- (iii) The Department of the Environment examines such Notices of Intention and advises the Minister for the Environment, who decided whether an environmental impact statement (EIS) is required for the proposal or not. The Department administering the Act may determine that an EIS is not required, but only the Minister administering the Act may determine whether an

67 *Ibid.*, p. 13.

EIS is required. (Procedure 3.1.1). In making such a determination, the Minister and the Department are required to take into account a variety of matters such as whether the project may have a substantial effect upon the community; whether or not a diminution of the aesthetic, recreational, scientific or ecological quality of an area might occur; whether there will be any adverse effect on cultural, architectural, or historic significance or the endangering of flora and fauna; any pollution or waste disposal problems and various other matters. (Procedure 3.1.2);

- (iv) If the Minister decides that an EIS is required, then it is the responsibility of the proposer(proponent) to prepare the document. Section 4.1 of the Procedures provides details of the information to be included, but the Act does not make any formal statement about the detailed methodologies to be used;
- (v) With certain exceptions, the draft EIS is made available for public comment and response from other governmental agencies for a minimum period of 28 days (more commonly, 60 days). (Procedure 6.3.1.) The Minister for the Environment may require that a public inquiry be held and the resulting report, together with other comments, is then referred back to the proponent who may then incorporate them into the final EIS. (Procedures 8.1 and 8.2 govern preparation of the final statement);
- (vi) The final EIS is assessed by the Department of the Environment which advises its Minister. The Minister may recommend alterations to the proposal to modify the impacts and these recommendations must be 'taken into account' by the developer. The phrase 'taken into account' is not clarified. (Procedures 9.3, 9.5 and 10). 68

Contrary to American practice, EIS are not required for all federal projects in Australia, only those which the Minister for the Environment believes to be important. Wide discretion exists since the Minister is free not only to determine the need or otherwise for an EIS, but also the matters to be dealt with, whether the draft EIS will be made available for public comment, whether a public inquiry should be conducted, whether additional information is required, whether a proposed action or class of actions should be exempted from the requirements of procedures, and if so, whether the reasons for exemptions should be made public. These wide discretionary powers enable the Minister to play a crucial role in the proceedings.

Accountability is clear but an insensitive or incompetent minister can virtually negate the whole intention and performance of the Act and render the entire EIS procedure practically inoperative. It would appear that too much power is exercised by and through the minister, with no provision for appeal.⁶⁹ This offers little prospect for environmentalists to achieve reform of resource management practices, other than by direct persuasion of politicians.

Arrangements for public inquiries are mainly embodied in the Act itself, rather than in the Procedures. A public inquiry may be held whether or not an EIS has been prepared, but there appears to be no legally enforceable right for a citizen to attend and state his views. Whether or not an inquiry should be held is decided by the minister but the procedures to be followed are determined by the commission of inquiry. The findings and recommendations of a public inquiry have no direct legal consequences for any subsequent administrative or policy decisions by government, neither are they binding upon the proponent who may ignore or accept the advice, provided the final EIS proves acceptable to the minister.⁷⁰

(b) Comment on Commonwealth Practice

In attempting to summarise Australian experience to date, Formby has provided a comprehensive evaluation and overview of these provisions.⁷¹ His impression is that the Commonwealth EIS legislation applies in a very indirect way; it provides a mechanism for review of intended actions, but has little to offer in the way of comprehensive guidelines or enforcement. By requiring proponents to undergo information gathering and presentation, by having the documents mostly exposed to public view and with the implicit prospect of a public

69 *Ibid*, pp. 16-17.

70 Watson W., 'The Public Inquiry' in *The EIS Technique*, *op. cit.*, pp. 43-45; Fisher D., *Environmental Law in Australia*, *op. cit.*, pp. 149-154.

71 Formby J., *Environmental Impact Assessment and the Decision-Making Process*, *op. cit.*, pp. 9-14 especially; Formby J., *Environmental Policy Review and Project Appraisal : The Australian Experience*, *passim*.

inquiry, a form of suasion exists on prospective developers to consider environmental factors. Unfortunately, the results of Commonwealth legislation in terms of improved environmental management have not been impressive. The EIS is a mere hurdle to be overcome by the developer in gaining approval for the project; little exists in the way of subsequent monitoring, enforcement or review to ensure that satisfactory performance is obtained⁷². Indeed, many projects have been approved by the federal Government even before an EIS was undertaken, and some ministers have declined to enforce an EIS when investigations would appear to have been essential in the public interest⁷³.

Formby has catalogued some of the successes and failures within the Australian jurisdiction. In the first three and a half years of operation of Commonwealth procedures, approximately 13,800 proposals were examined, of which only 2,850 were considered environmentally significant. Following a review of these latter proposals, most were judged not of sufficient environmental importance to warrant the preparation of a detailed EIS (judgments made by the Department of the Environment and not subject to external scrutiny or appeal). The 49 EIS formally requested and the two public inquiries initiated during the period amounted to less than half of one per cent of total projects originally examined. The corresponding figure in the United States under NEPA for the five and a half years to 30 June 1975, was approximately three and a half per cent, i.e. seven times higher than the Australian figure⁷⁴. The proportion of EIS required in Australia has been extremely low, thus many of the

72 Clark M., *The Environmental Impact Statement as an Aid to Tasmanian Developers*, Occasional Paper No. 2, Centre for Environmental Studies, University of Tasmania, 1976.

73 Formby J., *Environmental Policy Review and Project Appraisal : The Australian Experience*, *op. cit.*, pp. 15-16.

74 *Ibid*, pp. 16-17.

prospective benefits of environmental legislation have not accrued. Moreover, the discretionary nature of the procedures has eroded their effectiveness still further. Because of the Commonwealth Government's unwillingness to intervene in projects having State implications and a lack of effective judicial review, Australian EIS legislation seems little more than a token gesture to pacify an uninformed but anxious public. Fowler's definitive study of the federal EIS provisions draws much the same conclusion, noting that environmental impact assessment in Australia is largely administrative and discretionary, rather than statutory and mandatory, leaving little room for public participation or appeal⁷⁵. This impression is further reinforced by an examination of complementary State legislation.

(c) State Procedures

(i) Victoria and New South Wales

Only one State, Victoria, has passed legislation directly embodying environmental impact assessment procedures. The other States have adopted environmental impact assessment but tend to use guidelines and procedures not protected by or enshrined in statute, and thus open to varying interpretation and adjustment⁷⁶. Most State procedures, however, are given some degree of indirect support by legislation for land-use planning and pollution control⁷⁷. Although the principal features of State procedures bear some resemblance to those of the Commonwealth, there are significant variations between States and amongst the provisions themselves, as well as in the extent of implementation and enforcement.

75 Fisher D., *Environmental Law in Australia*, *op. cit.*, pp. 21-33.

76 *Ibid.*, pp. 146-149.

77 *Ibid.*, pp. 97-106 and pp. 168-175.

New South Wales has the longest and most extensive experience with environmental impact assessment and environmental inquiries, having passed through several phases of State planning, regional planning and land-use management⁷⁸. An environmental impact policy was announced early in 1972 and formal procedures were introduced in 1973, but were subsequently revised. Procedures issued in October 1974 contained some provisions which differed markedly from those of the Commonwealth. There was no formal requirement in the New South Wales procedures for 'draft' and 'final' EIS. The determining authority was required to 'seek and take into account' public comment on the EIS, but the EIS need not be revised⁷⁹.

Administration of the New South Wales procedures appears to be more decentralised than in the case of the Commonwealth. The State Pollution Control Commission (SPCC) which until 1979 had the overall responsibility for ensuring that the procedures were applied, did not always become involved in administering the procedures and in reviewing the EIS. The specific responsibility for doing so in any particular instance lay with the 'determining authority', i.e. the authority which had the primary role of deciding whether the proposed development should proceed. This virtually left implementation to individual departments⁸⁰. The SPCC was in a position to intervene, but normally did not do so except where the issue was 'of special significance or highly controversial', or where a public authority other than the determining authority objected to a proposal on environmental

78 Formby J., *Environmental Policy Review and Project Appraisal : The Australian Experience*, op. cit., pp. 42-43.

79 *Ibid*, pp. 42-44.

80 *Ibid*, pp. 43-44.

grounds. In such circumstances, SPCC decisions were binding⁸¹. The New South Wales public inquiry procedures were less formal than Commonwealth provisions, with the SPCC summarising the main issues and a round table discussion following among those who were directly involved or who had made major submissions.

Following the enactment of new State Planning and Environment legislation in 1979, amended provisions now exist in New South Wales⁸². Both the Planning and Environment Commission and the State Pollution Control Commission became responsible to one minister. Victoria, on the other hand, has separate Ministers of Planning and Conservation, and different arrangements apply in other States. The new legislation in New South Wales attempts to link State planning, land-use management and environmental protection through a variety of State environmental plans, local development control, heritage protection, and a land and environment court, but it remains to be seen whether this comprehensive framework of impact assessment and land-use regulation will work well in practice. Initially, it appears to be complex and ambitious⁸³.

Based upon experience to date, Formby argues that Australia's two most populous and industrialised States, Victoria and New South Wales, have adopted quite different approaches to environmental policy and project appraisal⁸⁴. The tendency in New South Wales is to favour public inquiries, while Victoria has tried to keep environmental impact assessment and land-use management largely 'in-house' between Government departments.

81 *Ibid*, pp. 44-45.

82 For an outline of current provisions see NSW Planning and Environment Commission *Annual Report* 1979-80. Page 15 of the Report summarises all legislation, which involves several new statutes and the amendment of some existing statutes.

83 See explanatory pamphlet, NSW Department of Environment and Planning, *The NSW Planning System*, September 1980.

84 Formby J., *op. cit.*, p. 42.

The Ministry of Conservation in Victoria is an umbrella organisation formed in 1972 and given responsibility for six pre-existing Government agencies. These include the Land Conservation Council responsible for determining proposed allocations of Crown land; and the Environment Protection Authority which has had a stormy history in implementing pollution controls since its establishment in 1970 (Russ and Tanner, 1978)⁸⁵. The Ministry of Conservation also has a substantial central staff of its own, and in implementing regional studies accumulates useful environmental data as part of that process. As well, the Ministry of Planning also collects land-use and environmental data, hence the Victorian system has many inputs, but the question arises as to whether or not these arrangements dissipate control rather than consolidate it.

Within the Victorian framework, EIS has a rather low-key role, although this role has perhaps strengthened over time. A number of EIS have been prepared and have resulted in some modification of projects, mainly those within the public sectors⁸⁶. The Act is not entirely clear as to 'works' covered by its provisions, but different procedures do apply to private sector operations. Here it is left to the relevant Government decision-making body or the responsible minister to refer the matter to the Minister for Conservation for his advice. The entire system of Victorian environmental impact assessment thus remains highly dependent upon the integrity and discretionary authority of ministers of the Crown. A minister may or may not decide to

85 *Ibid*, pp. 42-43. See also Russ P., and Tanner L., *The Politics of Pollution*, Visa Books, Melbourne, 1978.

86 Gilpin A., *The Australian Environment : Twelve Controversial Issues*, *op. cit.*, Chapter 4.

initiate public inquiries, but there is no appeal against such decisions. The Minister for Conservation only becomes an 'adviser' if requested to do so. Such weaknesses negate⁸⁷ the principal intent of environmental impact legislation.

(ii) South Australia and Tasmania

South Australia and Tasmania do not possess the natural resource base of Queensland and Western Australia, neither do they possess the industrial base of Victoria and New South Wales. Both States remain very dependent upon attracting investment through other locational factors such as favourable labour or market situations, or the availability of public infrastructure support of various kinds. Neither State has strong environmental policy review or project appraisal arrangements, in part because environmental quality may be sacrificed to lure prospective economic development⁸⁸.

Following the Lake Pedder controversy in the 1960s, Tasmania established a Department of the Environment in 1973, charged with the responsibility for pollution control (environmental protection and regulation) and the administration of basic guidelines and procedures for EIS. But the Department's activities are hampered by staff shortages and lack of co-operation by other agencies⁸⁹. Tasmania's environmental impact assessment procedures are not embodied in legislation. However, classes of sites and premises likely to be polluted are required to seek a licence to operate; moreover conditions can be imposed⁹⁰.

87 *Ibid.*, pp. 79-80.

88 Other nations do not find it necessary to make major sacrifices of environmental quality in order to attract private investment. It is a mystery why such a notion is so readily accepted by Australian politicians.

89 Clark M., *The Environment Impact Statement as an Aid to Tasmanian Developers*, *op. cit.*

90 *Ibid.*, Chapter 4.

In theory, all public agencies are required to prepare EIS on any proposal likely to have a significant impact on the environment of the State, but authorities such as the Hydro-Electric Commission and the Forestry Commission have failed to comply with such guidelines and there is no compulsion for them to do so. In the recent Lower Gordon hydro-electric proposals (1979), an EIS was prepared but covered only portion of the project, none of the options, and was a mere resource inventory with no evaluation of ecosystem dynamics or implications of environmental impact⁹¹. The Tasmanian Department of the Environment has no control over local government projects unless Commonwealth or State funding is involved. Of the 125 environmental impact statements reviewed by late 1978, only nine were rejected, although many were modified as a result of review. Not all provisions were subsequently enforced⁹².

The former Dunstan Labor Government in South Australia, despite its progressive social outlook, did not display much interest in environmental impacts and there is no evidence that the present Liberal Government has altered this perspective. Environmental impact assessment guidelines were published in 1978 superseding earlier measures outlined in 1973, but the prevailing viewpoint seems to be that ministerial discretion about projects will suffice and environmental impact assessment provisions are not vigorously pursued⁹³. Only a few

91 The Lower Gordon EIS has been strongly criticised by a number of authorities, but the HEC continues to regard it as 'acceptable' and there is no means of enforcing revision.

92 Formby J., *Environmental Policy Review and Project Appraisal : The Australian Experience*, op. cit., p. 41.

93 *Ibid*, pp. 41-42.

EIS have been prepared in South Australia, although many proposals have been screened at the Notice of Intent stage. The prevailing philosophy is 'dialogue' with industry, and attempted persuasion rather than regulation, with public participation being largely ignored.

(iii) Western Australia and Queensland

Formby states that the prevailing growth ethic expressed through right-wing Premiers means that environmental impact assessment is given low priority in Queensland and Western Australia. In general, environmental considerations are openly sacrificed for economic growth, and State politicians tend to foster local identity and an antipathy to federal measures, including EIS legislation. Despite this apparent commonality of interests, the two States have developed quite different approaches to environmental administration. Whereas Western Australia's approach tends to be relatively technocratic and centralised, Queensland's environmental provisions are far more decentralised and diffuse⁹⁴.

Western Australia has an interlocking central structure of environmental management, consisting of the Environment Protection Authority, the Conservation and Environment Council and the Department of Conservation and Environment. The Director of Conservation and Environment is ex-officio Chairman of the Authority and Council. The 1975 Act contains some powers which have not yet been fully utilised, including that of determining environmental policies for the entire State. The first of these policies in draft form has now been compiled for the coastal zone, but considerable difficulties

94 *Ibid*, pp. 37-39.

95 *Ibid*, pp. 38-39.

of acceptance and implementation have been encountered. Until fairly recently, Western Australia did not favour formalising EIS procedures, but in 1979 new procedures were published incorporating a requirement for Environmental Review and Management Programmes (ERMP), similar to environmental impact assessment but with particular emphasis on environmental management subsequent to approval, an apparently important innovation⁹⁶. An interesting facet of the Western Australian approach has been the Agreement Acts between the State Government and proponents of industrial and mining projects⁹⁷. Nearly fifty such Acts have been passed, mostly since 1960, being introduced principally to define the respective rights and obligations of the State and the developer with respect to provision of infrastructure for major projects, but also to expedite development and overcome statutory obstacles. Some of the more recent agreements contain a reference to ERMP, but there is a question as to how far these review and management programmes will be enforced. Earlier Agreement Acts have been severely criticised and regarded as environmentally disastrous, but there are recorded instances (e.g. Wagerup aluminium refinery) where a considerably revised ERMP was required by the Government⁹⁸.

Perhaps the weakest form of environmental protection operates in Queensland, where in 1972 the Government promulgated a policy that the environmental effects of any development should be evaluated as part of the decision-making process. In practice, little occurred. In 1975, a procedural manual was issued placing

96 *Ibid.*, p. 38.

97 *Ibid.*, p. 38; see also O'Brien W., 'Environmental Impact Statements and a "Push me - Pull you" Approach', *Search*, Vol. 7, No. 6, 1976, pp. 264-267.

98 Hughes O., 'Bauxite Mining and Jarrah Forests in Western Australia' in Scott R., (Ed.), *Interest Groups and Public Policy*, *op. cit.* pp. 170-193.

responsibility on administering departments and authorities to initiate and assess EIS, as and when deemed necessary.

The role of the Queensland Environmental Control Council was advisory but in 1978 the Council itself was abolished.

In theory the Co-ordinator-General has some power to co-ordinate environmental assessment, but in reality the onus still rests with development agencies, with virtually no public participation or enforcement⁹⁹.

(d) Summary

In assessing Australian legislation and case experience, Formby maintains that it is rather difficult to generalise, since practice has varied over time, as well as within and between States. In this respect a learning experience is occurring. Because of the small number of States, as well as the division of powers, their importance in relation to the whole is far greater in Australia than in the United States. Whereas in North America it is the courts which have brought interpretation and enforcement to the fore, in Australia more flexible administrative arrangements and less judicial intervention have been sought, but with consequent anomalies and undue reliance on ministerial discretion¹⁰⁰. As yet, environmental impact assessment remains very much an appendage of traditional project evaluation and is not thoroughly legitimised in the political and administrative arena or the public mind. The grave danger is that the community will unwittingly accept token EIS as sufficient environmental safeguard.

The problem for voluntary conservation groups is that the diversity of State and Commonwealth legislation and practice necessitates the tailoring of demands for environmental review to

99 Formby J., *op. cit.*, p. 37.

100 *Ibid*, p. 17 also pp. 50-58.

suit particular contexts. Thus far, pressure for comprehensive environmental impact assessment has proven largely unsuccessful, simply because ministers and environmental protection authorities are reluctant to press prospective developers to openly state adverse impacts upon the environment. Given the wide discretion available to officials and the reluctance of the courts to intervene, environmental impact assessment appears to serve little purpose, other than providing a vehicle for debate about options and priorities.

7.6 CRITIQUE OF AUSTRALIAN PRACTICE

It has been argued by some commentators that the Australian approach avoids the high costs and delays which have been attributed to the North American system of EIS review by the courts, and by providing a discretionary framework for obtaining information on the environmental consequences of proposals, it leaves decision-making where it legitimately belongs - firmly in the hands of the politicians. But it seems likely that ministerial discretion may be merely a pseudonym for covert bureaucratic advice from staff close to the minister¹⁰¹. It has certainly not yet been demonstrated that the Australian approach is superior to the American, particularly where resolution of the public interest is involved. As Formby points out, for that conclusion to be drawn a number of conditions would need to hold. It would be necessary to establish that politicians are provided with all relevant information prior to decision-making; that they full comprehend the ecological data and duly take it into account; that such ministers are fully accountable to parliament on all aspects of the decision process, and that no special interest group is in a disproportionately advantageous position to influence politicians and the public. There is no guarantee that these conditions prevail; indeed there are good grounds for believing the opposite¹⁰².

101 Clark S.D., 'Redcliff and Beyond : The Commonwealth Government and Environmental Planning', *Adelaide Law Review*, Vol. 5, 1975, pp. 165-187.

102 Formby J., *op. cit.*, p. 18 and pp. 56-57.

First, it is clear from a wide spectrum of case studies of Australian project evaluation that decision-makers are not always provided with appropriate or sufficient information on the options and implications. There is strong resistance to environmental impact assessment requirements by some government agencies, and reviewing authorities often lack the resources to adequately monitor and enforce them¹⁰³. Most environmental impact assessments are project specific and unrelated to broader social and environmental policies; moreover such assessments are rarely open to full public inquiry¹⁰⁴. Even where the political decision-maker is provided with adequate information, that is not to say it will be accorded due weight. In Cabinet, environmental portfolios are not usually given high priority relative to development functions. In any event, by the time an EIS reaches a minister's desk the outcome has virtually been foreclosed by earlier decisions of administrators. This fact was realised by the Royal Commission on Australian Government which noted the increasing unreality of the myth of 'neutral advice' from the bureaucracy:

'...to the extent, therefore, that the head of department and his colleagues have capacity to act in ways for which the minister cannot be held responsible there is, unless the official concerned can be identified and called to account, a gap in the hierarchy of responsibility and accountability through which political control could escape altogether.' 105

Second, in order to gauge the implications of development projects, the public must be given adequate access to information. But as already noted, the tendency in Australian public services has generally been one of secrecy and censorship of information¹⁰⁶. The Commonwealth has formulated a Freedom of Information Bill (Attorney-General's Department

103 Mosley J.G., 'The Assessment Process as it works within State/Provincial and Federal Governments', *op. cit.*, pp. 2-4 and pp. 8-10.

104 Dunphy M., 'An Environmentalist Looks at Environmental Studies and Inquiries', *Habitat*, Vol. 6, No. 6, 1978, pp. 22-27.

105 Commonwealth of Australia, *Report of the Royal Commission on Australian Government Administration*, Canberra, 1976, p. 12.

106 Spigelman J., *Secrecy : Political Censorship in Australia*, *op. cit.*

1978) but controversy about its provisions has clouded Parliamentary debate and it appears that the legislation will be considerably weaker than its North American counterpart and much less liberal than Scandinavian legislation.¹⁰⁷

Third, during the process of environmental policy review and project appraisal, the government is always subjected to unequal pressures from mutually opposed interests, and conservation tends to get less of a hearing than development. The industrial and mining lobby is well established and functions through both professional lobbyists and industry advisory groups. Because of direct financial interest in outcomes, development interests are willing and able to deploy large sums of money to their cause through media campaigns and covert contributions to political parties¹⁰⁸. Conservation groups and other community alliances lack a comparable source of funds; moreover they find that the onus is on them to defend the environment since the tendency is to assume that all development is progressive unless proved otherwise in practice. In other words, the burden of protection lies upon private citizens rather than upon the developers where it truly belongs¹⁰⁹. Environmental groups not only possess small budgets, but there are few equivalents in Australia of the American private foundations which fund independent research and aid conservation programmes.

In summary, there are powerful obstacles to balanced perspectives in EIS preparation and assessment. Unfortunately, the current economic recession tends to exacerbate the situation, since it generates a mood in which environmental standards are sacrificed by politicians and bureaucrats in pursuit of claimed 'economic needs'. This attrition of environmental resolve has been accompanied by withdrawal of Commonwealth

107 Attorney-General's Department, *Freedom of Information Bill : Background Notes*, Australian Government Publishing Service, Canberra, 1978.

108 See Goodman R., *After the Planners*, *op. cit.*; Dempsey R., (Ed.), *The Politics of Finding Out : Environmental Problems in Australia*, *op. cit.*

109 Mosley J.G., 'The Assessment Process as it works within State/Provincial and Federal Governments', *op. cit.*, pp. 16-17; Peters B., 'Insiders and Outsiders : The Politics of Pressure Groups Influence on the Bureaucracy', *Administration and Society*, Vol. 9, No. 2, 1977, pp. 191-218.

support for environmental principles in the face of lobbying by industry and development pressures from the States¹¹⁰. In short, environmentalists have only limited prospects of achieving reform of resource management practices through EIS procedures.

PART C : FEDERALISM AS LEVERAGE IN ENVIRONMENTAL IMPACT ASSESSMENT

7.7 COMMONWEALTH POWERS AND THEIR APPLICATION

In a situation where State environmental legislation is weak and rarely enforced, where the Commonwealth has proven reluctant to enforce its own environmental provisions, and where individuals cannot gain amenity standing in the courts, conservationists have had to seek other tactics to gain their ends. One prospective mechanism which has achieved some measure of success is to use intergovernmental relations as a lever to try to force one level of administration to act against another to preserve the environment. Politicians are jealous of their own jurisdictions and power, moreover each level of government wishes to be perceived as promoting the general good. Accordingly, intervention will be contemplated only when approbation and kudos may be obtained or political survival is at stake¹¹¹. Intervention by a central authority can be depicted as in the national interest and even though the Commonwealth may normally be reluctant to intercede in State affairs, a number of powers exist which render such intervention feasible¹¹².

In Australia, the Constitution grants certain specific powers to the Commonwealth but leaves a wide range of residual powers to the States, especially direct powers over such matters as land-use management, resource exploitation, pollution control and nature conservation. In theory, all the Commonwealth can do is to try to use moral suasion and financial incentives to persuade the States to exercise appropriate discretion in

110 Mosley J.G., 'Protect the Environment Acts', *The National Parks Journal*, Vol. 28, No. 4, June-July 1979, pp. 11-14.

111 Holmes J., and Sharman C.G., *The Australian Federal System*, *op. cit.* Chapter 8.

112 Formby J., 'Environmental Policy Review and Project Appraisal : The Australian Experience', *op. cit.*, pp. 18-20.

environmental management. In practice, there are a number of powers which may be used to influence the States. Opie classifies these powers into five groups: financial, regulatory, external affairs, executive and sovereignty powers¹¹³. Commonwealth powers in all these categories are subject to limitations of various kinds which may reduce their effectiveness for environmental purposes. For example, taxation must not discriminate between States or parts of States (Constitution 5. 51(2)). Despite such formal constraints and the political costs of particular actions, power does exist if the political will prevails to employ such mechanisms.

The financial power of the Commonwealth under S.96 '... to grant financial assistance to any State under such terms and conditions as the Commonwealth thinks fit', is also a basis for requiring EIS for joint Commonwealth-State projects under the Environment Protection (Impact of Proposals) Act. In theory, the same power could apply if federal funds were made available for State projects, although it is debatable whether the national Government would press this point¹¹⁴. Section 96 is potentially the most powerful tool possessed by the Commonwealth, as the States remain very dependent upon federal Government for financial aid and permission to engage in capital borrowing. However, there is understandable reluctance by the Liberal-Country Party to use what they view as 'weapons of centralist coercion and massive and continuous erosion of State sovereignty'¹¹⁵.

The extent of Commonwealth executive powers over matters such as budget appropriation is unclear. From the Australian Assistance Plan of 1975 (AAP) and others, there appears to be considerable support for

113 Opie H., 'Commonwealth Power to Regulate Industrial Pollution', *Melbourne University Law Review*, Vol. 10, 1976, pp. 577-613.

114 In 1980 the Australian Democrat Party representatives in federal Parliament announced that they might attempt to press this power if hydro-electric development is attempted in Tasmania's wilderness south-west region.

115 This is the rhetoric of Prime Minister Fraser's 'New Federalism' policy, but it has not prevented the Cabinet from trying to exercise a strong influence over State government expenditures by limiting specific-purpose payments and public borrowing.

the view that the limits of executive power coincides with those of legislative power. But as pointed out by Crommelin and Evans in relation to the AAP case, this principle does not in itself provide a solution because of the differences concerning the limits of legislative power¹¹⁶. Some support also emerged during that case for the view that there are certain national powers which arise simply from the Commonwealth's existence as a national Government, rather than from any specific provisions of the Constitution; but again views differ as to the possible extent of such powers.

The Commonwealth has direct environmental control over various geographical areas by virtue of its sovereignty over them. These areas include the Territories, the coastal sea and continental shelf and land acquired by the Commonwealth for public purposes¹¹⁷. Finally the relevance of the Commonwealth's defence power to some environmental matters should be mentioned. This goes beyond the control of defence establishments and strategic materials to involve direct powers in times of proclaimed emergency or national interest. For example, defence is one of the aspects cited in the Atomic Energy Amendment Act 1978¹¹⁸. The practice applied in that Act of listing a number of heads of Commonwealth power has been used in other recent acts, apparently with the purpose of ensuring that if the Act is found to be invalid in some respects it will remain valid in others¹¹⁹. The National Parks and Wildlife Conservation Act 1975 is an example of this approach.

116 Crommelin M., and Evans G., 'Explorations and Adventures with Commonwealth Powers' in Evans G., (Ed.), *Labor and the Constitution*, Heinemann, Melbourne, 1977, pp. 24-66.

117 See Formby J., *op. cit.*, p. 9 for discussion of matters in this paragraph. See also Harders C, 'Australia's Offshore Petroleum Legislation : A Survey of its Constitutional Background and its Federal Features', *Melbourne University Law Review*, Vol. 6, 1968, pp. 415-428.

118 Australian Parliament, *Uranium - Australia's Decision*, (Collection of Ministerial Statements and Background Papers) Australian Government Publishing Service, Canberra, 1977.

119 Whalan D., 'The Structure and Nature of Environmental Law', *Federal Law Review*, Vol. 8, 1977, pp. 294-317.

As Formby indicates, it makes reference (ss.6(1), 71(4)) to many sources of Commonwealth power '... appropriate to be established by the Australian Government, having regard to its status as a national government', and adds to these the Commonwealth census and tourism powers¹²⁰.

There are probably many other powers which have been, or could be used, to achieve Commonwealth environmental purposes within the States; nor has the High Court generally played an inhibiting role to Commonwealth expansion in this area¹²¹. Generally it is political reluctance and limited administrative resources which have constrained Commonwealth activity and achievement to date. It must be conceded that the division of environmental powers within the federalism framework creates many problems for environmental management. Competition between States for development does not encourage thorough environmental review. Where resources such as the River Murray system cross State boundaries, agreement on adequate environmental measures is difficult to achieve¹²². In Australia, approaches to water and air pollution are highly fragmented as a result. Relations have often been strained, as in 1974 when New South Wales refused to supply further information to a Commonwealth funded study of the Botany Bay region¹²³. We are therefore left with systems of environmental policy review and project appraisal whose degree of force and effectiveness can be determined by the government of the day, not through the legislative process, but in its executive capacity.

120 Stevenson I.G., *Mineral Resources and Australian Federalism*, Research Monograph 17, Centre for Research on Federal Financial Relations, Australian National University, Canberra, 1976.

121 Fisher D., 'An Overview of Environmental Law in Australia', *op. cit.*, pp. 47-67; Sawer G., 'Conservation and the Law' in Costin A., and Frith H., (Eds.), *Conservation*, *op. cit.*

122 Munro C., *Australian Water Resources and their Development*, Angus and Robertson, Sydney, 1974; Frith H., and Sawer G., (Eds.), *The Murray Waters*, Angus and Robertson, Sydney, 1978.

123 Senate Select Committee, *Report on Air Pollution*, Australian Government Publishing Service, Canberra, 1970; Senate Select Committee Report, *Report on Water Pollution*, Australian Government Publishing Service, Canberra, 1973; Coward P., 'Environmental Law in Sydney', Working Paper No. 1, Botany Bay Project, Sydney, 1976; Butlin N.G. (Ed.), *The Impact of Botany Bay*, Australian National University Press, Canberra, 1976.

Formby has carried out a comprehensive review of the Commonwealth's role in environmental policy and has concluded that attempts by the federal Government to downgrade its functions relative to those of the States may have unwittingly confused the situation, rather than clarified it¹²⁴. As part of the Fraser Government's 'New Federalism' policy, the Commonwealth has tried to negotiate memoranda of agreement with the States for them to accept prime responsibility for environmental management, but New South Wales and Queensland have resisted this proposal¹²⁵. In any event, a complex demarcation of duties has resulted, as is evident with respect to Victoria:

- (i) Matters for Commonwealth assessment:
 - * 'ordinary' works of the Commonwealth in the State;
 - * third party proposals strictly within the exclusive powers of the Commonwealth;
 - * programmes financed by federal specific-purpose grants.
- (ii) Matters for joint Commonwealth-State assessment:
 - * proposals subject to export approval;
 - * some 'one-off' projects financed by Commonwealth specific-purpose payments.
- (iii) Matters for State assessment:
 - * most foreign investment proposals;
 - * proposals financed by general revenue grants by the Commonwealth;
 - * some 'one-off' proposals financed by specific-purpose Commonwealth grants;
 - * proposals financed by specific-purpose Commonwealth grants but carried out by third parties or non-Commonwealth Government departments. 126

In theory, at least, the respective roles of national Government and the States have been obscured and environmentalists may be able to use such ambiguity as leverage of one level of administration against another in particular circumstances. Full redress of grievances may not be

124 Formby J., *op. cit.*, pp. 54-55.

125 See Landa P., Speech Notes for Conference at NSW Environment Centre, Office of the Minister for Planning and Environment, Sydney, June 1977, p. 10.

126 Formby J., *op. cit.*, pp. 19-20.

obtained but delay and confusion could be created, throwing project appraisal and authorisation into doubt¹²⁷. Commenting on the attempt by the Commonwealth to thrust environmental accountability on the States, the then New South Wales Minister for Planning, Mr Landa, said:

' Clearly, the federal Government has devised a way in which it can sidestep not only its statutory responsibilities, but its moral responsibility of exercising its unique and unduplicated role as guardian of the national environmental resource.' 128

Mr Landa may have been correct about federal evasion of responsibility, but a new government could just as easily reverse the situation and use the full extent of Commonwealth powers, as the Environment Protection (Impact of Proposals) Act 1974 remains as an operating statute, despite pressure from the mining industry to have it rescinded¹²⁹.

To date the only major conservation controversy in which federal EIS powers proved decisive and where the Commonwealth pitted itself against a State government, is the environmental conflict known to most Australians as the Fraser Island case 1971-1976, repercussions of which still surface from time to time¹³⁰. Once regarded as a momentous conservation victory, more sober reassessment suggests that the outcome was probably a politically expedient decision to offset public outcry about the approval of uranium mining ventures elsewhere in Australia. This hypothesis will be tested in the case evidence which follows, but other interesting aspects of environmental conflict will be considered as well.

127 This could prove to be a two-edged weapon, as delays to projects could cause a backlash against the environmental movement.

128 Landa P., Speech Notes June 1977, *op. cit.*, p. 10.

129 'Federal Environmental Legislation : Changes Needed' in *Mining Review*, September 1978, pp. 4-6; Innes J., 'Government Policy Issues and their Relevance to some Australian Minerals Development Projects', paper presented at Public Policy Seminar, University of Tasmania, 3 June 1976.

130 Gilpin A., *The Australian Environment : Twelve Controversial Issues*, *op. cit.*, Chapter 5.

7.8 MINERAL SANDS : OPPORTUNITY AND ECOLOGICAL HAZARD

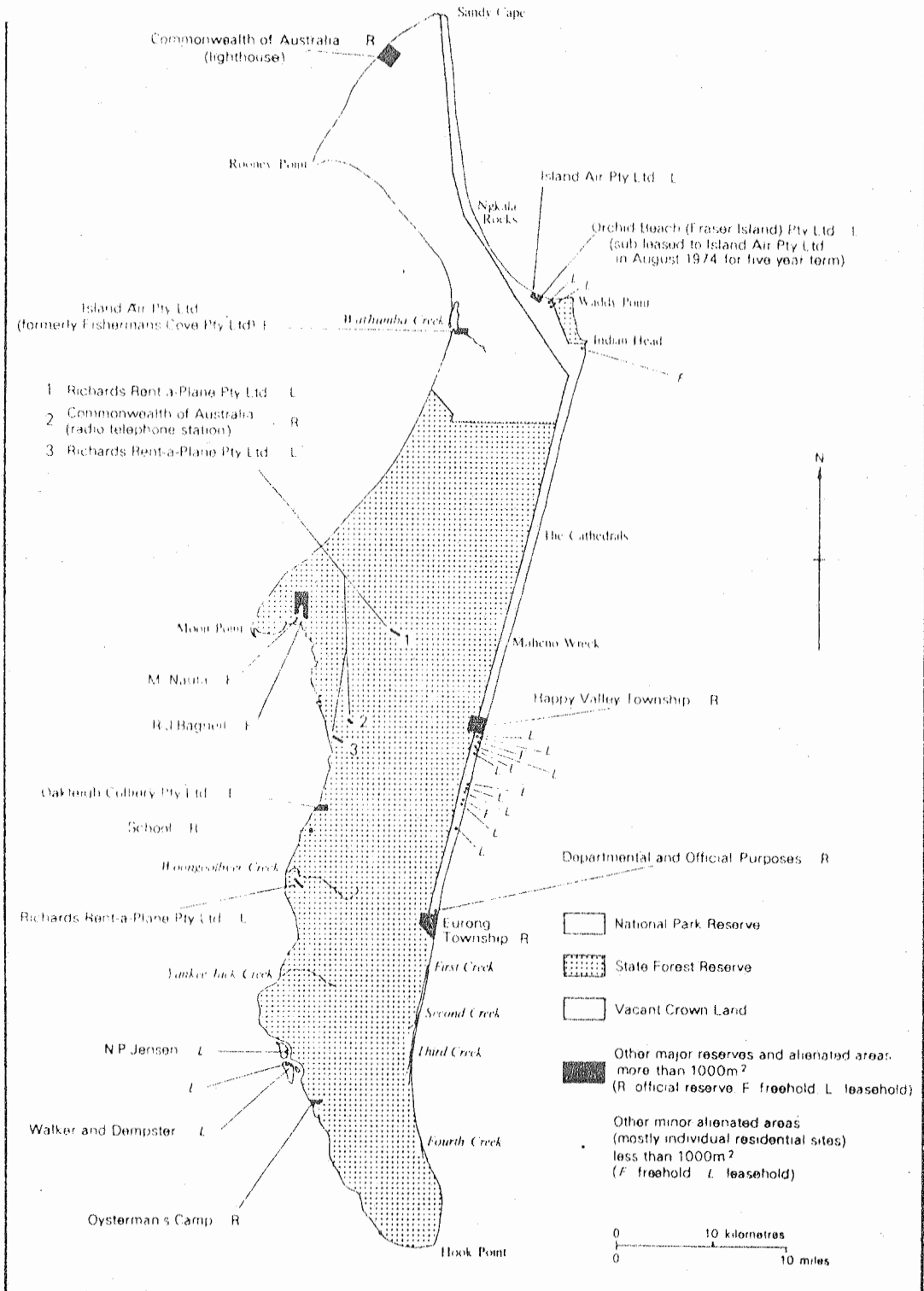
7.8.1 Fraser Island, the Physical Setting

Fraser Island, situated off the Queensland coast some 180 kilometres north of Brisbane, the State capital, is approximately 122 km in length, ranges from 5 to 25 km in width and covers an area of approximately 163,000 hectares, with a maximum elevation of 235 metres above sea level (see Map 9). At its nearest point, it is 26 km due east of the small urban centre of Maryborough (population 19,900 in 1971) and 80 km east of Bundaberg. The west coast is separated from the mainland by the shallow shoals of Great Sandy Strait and the southern tip of the island is only two kilometres from the mainland at Inskip Point. The remainder of the island includes large tracts of vacant Crown land, some township reserves and limited freehold property. There is a tourist resort at Orchid Beach, two small settlements at Eurong and Happy Valley and a number of huts at scattered locations. In 1971 approximately 100 persons resided permanently on the island, the principal activities being forestry, tourism and mining, with no commercial agriculture or grazing¹³¹.

Fraser Island is claimed to be the largest sandmass island in the world, being composed almost entirely of loose siliceous sand deposited in several periods over the last million years. Apart from dunes and sandblows, the island has over forty lakes, either perched above sea level or as 'windows' in the high regional water table¹³². Many of the lakes, creeks and swamps are of great beauty and interest, the vegetation being very diverse and the aquatic fauna of considerable scientific interest. The east coast consists of long beaches trafficable by four-wheel drive vehicles. Deposits of rare mineral sands, such as ilmenite,

131 Special Issue : Incredible Fraser Island, *Habitat*, Vol. 2, No. 2, October 1974, Australian Conservation Foundation, Melbourne, 1974.

132 Gawenda M., et. al., *Incredible Fraser Island*, (booklet), Australian Conservation Foundation, Melbourne, 1975, pp. 26-35.



Reserves, vacant Crown land and alienated areas on Fraser Island

(Source: *Final Report of the Fraser Island Environmental Inquiry*, Australian Government Publishing Service, Canberra, 1976, p. 37)

MAP 9 : FRASER ISLAND

rutile, zircon and several other heavy metals occur along or near this coast, concentrated in seams on the beaches or dispersed among areas of the low and high dunes¹³³. The qualities most appreciated by visitors to Fraser Island are its isolation and wilderness value and relatively unspoilt environment. The island has considerable importance for scientific investigation.

7.8.2 Land-Use Management

The land-use history of Fraser Island is quite complex, ranging from numerous shipwrecks and the gradual displacement of the sizeable aboriginal population by the end of the nineteenth century, through uncontrolled timber exploitation prior to 1925 and regulated forestry operations since, to declaration of State Forest reserves in the mid-1920s and the establishment of limited national park areas in 1971 and 1973¹³⁴. Tourism began in the early 1930s, with some sites illegally sublet and facilities erected without permit, resulting in a very confused land tenure situation by 1963. In that year some State Forest was revoked and gazetted as townsites, not all of which have subsequently been developed. In 1964 further areas of State Forest were excised to form a coastal strip approximately 800 metres wide along the northern two-thirds of the east coast. Little control is exercised over camping, but all visitors to Fraser Island are required to obtain a permit from the Forestry Department. This requirement is enforced in order to keep out 'undesirables'. In 1973 the total area of dedicated National Park was 33,640 hectares, but this did not include all the areas that conservationists believed worthy of preservation¹³⁵.

133 *Ibid*, pp. 45-47.

134 Commonwealth of Australia, *Final Report of the Fraser Island Environmental Inquiry*, October 1976, Australian Government Publishing Service, Canberra, 1976, Chapter 3.

135 *Ibid*, Chapter 3, pp. 43-44.

7.8.3 The Mineral Sands Industry

According to Bambrick, two of the principal weaknesses of Australian minerals policy are ambiguity about export controls and diversity of taxation and royalty provisions from State to State and product to product. Vacillations in policy are further undercut by competition between States for development¹³⁶. These deterrents to potential investors are to some degree offset by foreign investment guidelines which afford considerable opportunity for multi-national corporations to evade Australian taxation and transfer profits, as well as playing one State against another to gain favourable support and treatment¹³⁷. In assessing any particular case-situation, these countervailing factors must be weighed to ascertain what contribution a mining project makes to the region as well as what it takes from the community. As yet, there are few detailed studies to indicate where specific balances lie, hence one must discount in some degree the rhetoric of both the corporations and their critics. Evaluation becomes more complex when ecological balances must be considered in addition to social and economic implications¹³⁸.

Rare mineral sands such as rutile, zircon and ilmenite are used in the production of titanium steel and paint pigments as well as in a number of specialist applications. Australia has a virtual monopoly of world supplies as nearly 98 per cent of the known reserves of rutile, 80 per cent of zircon and 25 per cent of ilmenite are known to exist in the beach sands of the nation's east and west coast areas¹³⁹. Although

136 Bambrick S., 'Policy Analysis for the Minerals and Energy Sector', paper presented at 46th ANZAAS Congress, Canberra, January 1975; see also Mohanty B. 'A Review of the Mineral Royalty Structure in Australia', *Queensland Government Mining Journal*, Feb. 1972, pp. 63-66.

137 Bambrick S., 'The Integration of Australia's Minerals Policies', paper presented at 44th ANZAAS Congress, Sydney, August 1972; Bambrick S., 'Mining: The Problems for Australian Governments', *The Australian Quarterly*, Vol. 45, No. 1, March 1973, pp. 64-77.

138 See Symposium on Australian Mining, *Search*, Vol. 5, No. 1-2, Jan-Feb. 1974; Smith G., 'Minerals and Energy' in Patience A., & Head B. (Eds.), *From Whitlam to Fraser, op. cit.*, pp. 233-250.

139 *Final Report of Fraser Island Environmental Inquiry, op. cit.*, pp. 67-70 and pp. 128-132.

first mined in the 1930s and to some extent in the 1950s, production remained low until increased prices in the late 1950s induced a number of American-owned and controlled companies to invest in extraction. By 1970 annual Australian mineral sands production approached 1.5 million tonnes, with a then export value of \$45 million. By 1977 the figures were as follows:

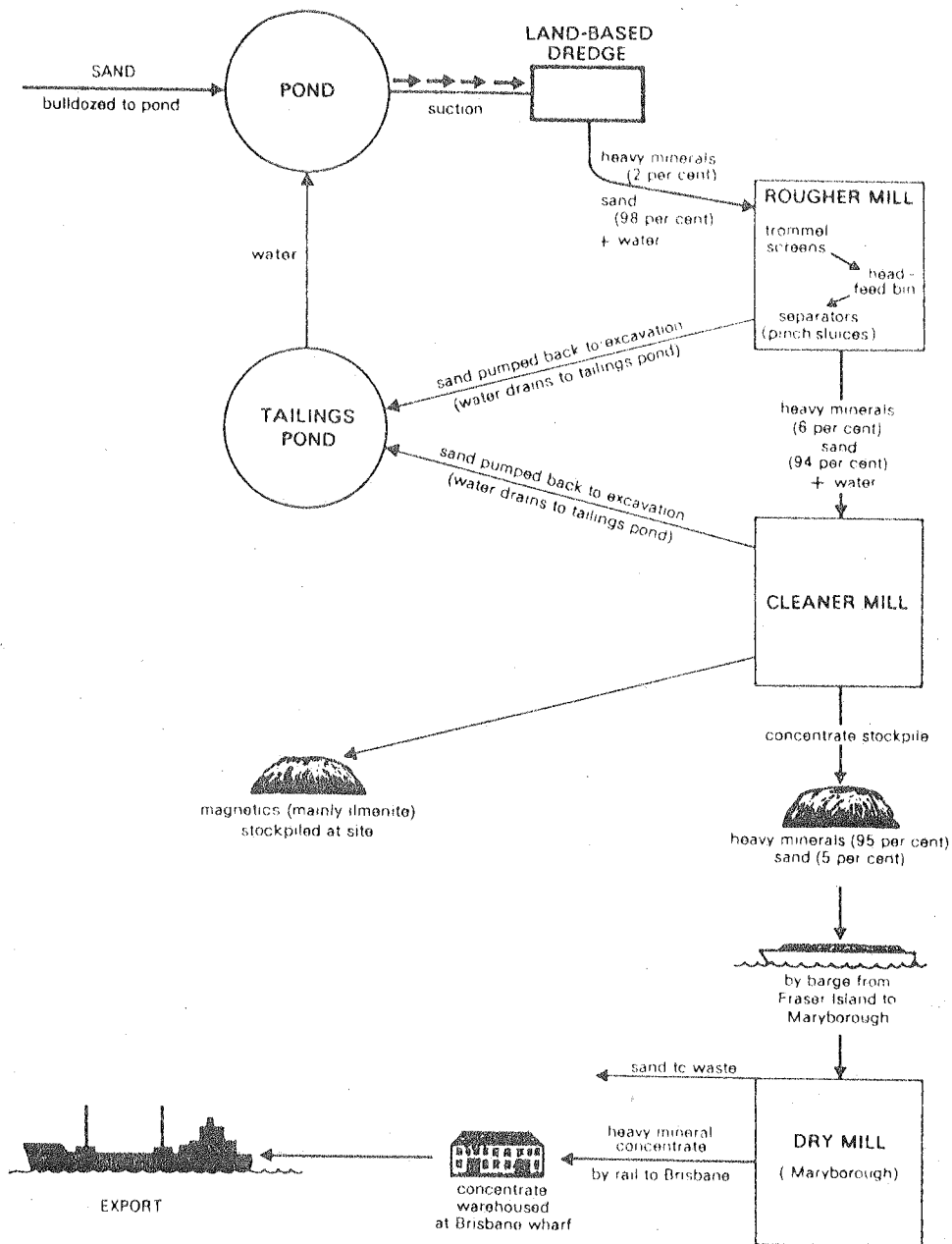
Rutile production	325,300 tonnes	Export value \$53.5 million	
Zircon production	398,000 tonnes	Export value \$36.2 million	
Monozite concentrates	9,379 tonnes	Export value \$ 1.2 million	140

This constitutes only a small portion of the Australian mining boom, but unlike iron ore production which is located in the largely uninhabited north-west of the continent, mineral sands extraction occurs in the eastern coastal areas, the most heavily populated region in Australia. Consequently land-use conflicts between sand-mining interests and recreational users of east coast beaches and dunes have erupted constantly throughout the past two decades¹⁴¹.

There are valid reasons why beach sand mining operations must be simultaneously regarded as economic opportunity and ecological hazard. In order to remove the heavy minerals from the sands, all vegetation must be removed by bulldozers and the first 12 to 25 centimetres of topsoil disposed of by stockpiling or other measures. On the beaches and on low dunes up to 20 metres above sea level, sand is worked by dredges operating in shallow ponds formed by excavation and embankment. On higher dunes sand may be sluiced down to dredging ponds or removed by trucks to processing plants. These operations cause considerable havoc to fragile ecosystems, where even limited human disturbance can create serious damage. Beaches and dunes are already prone to wind and water erosion, the migration of dunes inland and other complex and dynamic

140 Bambrick S., *Australian Minerals and Energy Policy*, Australian National University Press, Canberra, 1979.

141 Gilpin A., *The Australian Environment : Twelve Controversial Issues*, *op. cit.*, Chapter 5.



Flow diagram of DM Minerals' operations in relation to Fraser Island

(Source: *Final Report of the Fraser Island Environmental Inquiry*, op. cit., p. 80)

DIAGRAM 7 : FLOW DIAGRAM OF MINING OPERATIONS

effects on the flora and fauna¹⁴². There is considerable disagreement about whether these effects can be mitigated and controversy rages about the success or otherwise of remedial works and revegetation following mining operations. Little is known about the likely long-term effects on landscape and biota¹⁴³.

7.9 THE FRASER ISLAND CASE : AN OUTLINE CHRONOLOGY OF EVENTS

7.9.1 Origins of the Conflict

During the 1960s sand mining became the most serious threat to the future of Fraser Island. During that period Queensland Titanium Mines, a wholly-owned American company, applied for dredging leases for portion of the island. Quietly, in 1966, another mineral sands company, Murphyores Pty.Ltd., applied for mining leases covering 8600 hectares. Although required by law to conduct public hearings on lease applications, the Mining Warden at Maryborough held none, hence the leases were granted without attracting public attention. At that time Australian environmental awareness had not yet matured¹⁴⁴. Murphyores Pty.Ltd. and its American partner, Dillingham Constructions Pty.Ltd. did not commence mining operations immediately. They continued to investigate the mineral deposits of their Fraser Island leaseholds, content to wait until the completion of operations in other areas of Australia's eastern coast before developing the more remote Fraser Island deposits. In 1971 they applied for additional leases covering 3200 hectares. This time opposition was voiced and the Maryborough Mining Warden was forced to convene a public inquiry. Over 1300 people registered as objectors to the granting

142 *Final Report of the Fraser Island Environmental Inquiry, op. cit.* pp. 106-108.

143 Specht R., 'The Problems of Re-Vegetation after Sand-Mining of High Dunes' in Roffey-Mitchell N., (Ed.), *Some Considerations on the Value and Uses of Fraser Island*, Queensland Institute of Technology, Brisbane, June 1975, pp. 1-8 (Appendix 3).

144 Fraser Island Defenders Organisation (FIDO), *A Brief History of the Fight for Fraser Island*, Supplement to FIDO Journal *Moonbi*, 1971, reissued in updated form intermittently.

of new leases, yet the new applications were unhesitatingly approved¹⁴⁵.

Spearheading the fight in the Mining Warden's court was an organisation formed only three months previously (i.e. three weeks after the lease applications were filed). Calling itself the Fraser Island Defenders Organisation Ltd. (FIDO) the environmentalists adopted a logo which featured a determined bulldog wearing a spiked collar, with one forepaw on Fraser Island and the other on the Queensland coast. Although a bulldog may appear inappropriate as a symbol for an Australian environmental group, the founders of FIDO obviously had tenacity in mind¹⁴⁶. For many people, the defiant bulldog was the personification of FIDO's President, John Sinclair, conservationist and school teacher. A large man of cheerful disposition, great drive and optimism and absolutely unshakeable determination, John Sinclair came from a family with a strong connection with Fraser Island. His parents had honeymooned there in the 1930s, and in 1955 Sinclair first took his son to view the island's splendours. He has visited the island many times since, escorting others on safaris to publicise the island's beauty and to raise money for FIDO¹⁴⁷.

Besides the mining companies, John Sinclair and FIDO soon faced other opponents in Maryborough, the mainland town closest to Fraser Island. Three Maryborough families controlled the town's sawmilling business and had been exploiting Fraser Island's forest resources for nearly a century. More than 390 persons depended on the logging industry for their livelihood, an important factor in a town where the only other major industry, the shipyards, had closed down¹⁴⁸. The 170 jobs which the sand mining

145 *Ibid*, p. 1; see also 'Mineral Sands Mining', Chapter 5 of Gilpin A., *The Australian Environment : Twelve Controversial Issues*, op. cit., pp. 104-114.

146 They have strengthened this image by pressing for general management strategies for Fraser Island to the year 2000 and beyond.

147 For a profile of John Sinclair see *The Australian* newspaper, Weekend Magazine, 1 January 1977.

148 Information obtained from press cuttings and correspondence held by the Australian Conservation Foundation, Melbourne. Information on the regional economy is compiled in *Final Report of the Fraser Island Environmental Inquiry*, op. cit., Chapter 9.

operations might create appeared as a god-send. But John Sinclair and FIDO were openly critical of the likely environmental effects of the industry, and of the methods used by loggers and foresters. The logging families saw a threat to their longstanding arrangement, and battlelines were soon drawn. With Maryborough's first families openly opposed to FIDO, old friendships became strained and John Sinclair found himself isolated from the local council and commercial interests. Public meetings were held in Maryborough to discuss the sand mining issue. At each gathering the anti-conservation feeling ran high and it became apparent that employees had been instructed by their employers to attend the meetings and out-vote the FIDO advocates. In addition, Sinclair and his supporters received many threats of violence. Environmentalism is not a popular cause in rural Queensland towns of conservative character and small population¹⁴⁹.

The local newspaper, The Maryborough Chronicle, refused to publish statements by Sinclair or FIDO, and Sinclair repeatedly maintained that this was a consequence of commercial pressure and resulted in a misunderstanding by the public of FIDO's cause. 'All we ever wanted was a comprehensive land-use survey of the island', he claimed¹⁵⁰. But the logging interests became concerned when the Director of the Australian Conservation Foundation proposed to the Maryborough Mining Warden's Court that all of Fraser Island be declared a national park¹⁵¹. To support his claim that FIDO pursued a different goal from the Australian Conservation Foundation, John Sinclair cited a quotation from one of the earliest press releases of his organisation:

149 Information obtained from records of the Australian Conservation Foundation, Melbourne.

150 Observation by John Sinclair in personal interview with author.

151 For a statement of the Australian Conservation Foundation's policy see *Incredible Fraser Island*, *op. cit.*

' We are reconciled to the fact that some mining may take place, but we want to ensure that Fraser Island is not misused and to determine if there are better land-uses that Fraser Island can be put to, before further leases are granted. The only method, we believe, to determine this objectively is by a comprehensive survey which of necessity must include ecologists, botanists, zoologists, economists and perhaps even archaeologists or anthropologists as well as geologists and personnel representing mining, tourism and timber interests.' 152

FIDO supported continuation of selective logging on Fraser Island until new plantations on the mainland came into production in the 1990s. Logging would then be phased out and the island become principally a national park¹⁵³.

7.9.2 Commonwealth Involvement

With a \$4000 grant from the Australian Department of the Environment, FIDO hired a consultant to prepare a management plan of the island. Completed in only ten weeks, between March and May 1975, the plan surveyed the history and biophysical environment of Fraser Island and mapped the terrain into nineteen land-use classifications. It also dealt with the task of reconciling tourism, forestry and mining. The central recommendation was that a genuine national park be created on the island, as distinct from the token national park created by the Queensland Government in 1965¹⁵⁴. Although the latter encompassed nearly a quarter of the island, it was restricted to areas of scrub and sandy heath, totally excluding all ocean beaches, perched lakes, forest, coloured sands or canopied rain forest creeks, which constitute the major features and distinctive characteristics of the island. FIDO's proposals incorporated many of these scenic assets but still left much of the island outside the proposed new national park, including most of the areas covered by sand mining leases. The management plan recommended that no mining be allowed

152 *Moonbi*, Newsletter of the Fraser Island Defenders Organisation, June 1973, also subsequent Newsletters 1973 and 1974.

153 *Final Report of the Fraser Island Environmental Inquiry*, *op.cit.*, pp. 115-116.

154 Roffey-Mitchell N., (Ed.), *Some Considerations on the Use and Value of Resources of Fraser Island*, *op. cit.*; Stanton J.P., *A Report on Fraser Island : Natural History, Land-Use, Land Classification and a Proposed Framework for its Management*, Brisbane, 1975.

within the expanded national park but in other locations mining would be permitted, subject to certain environmental safeguards¹⁵⁵.

This flanking movement began to pay handsome dividends. Although the Maryborough establishment could not be converted to the conservation cause, many individuals within Queensland and in other States were persuaded to visit Fraser Island to assess the situation for themselves and to support the notion of land-use management to maintain the island's scenic and scientific attractions. In this campaign, FIDO's tabloid newsletter 'Moonbi' was extremely influential, circulating campaign information throughout the country and generating considerable campaign funds¹⁵⁶. Gradually the debate broadened to the stage where some supporters argued that Fraser Island was a national asset and that the future of the region should not be decided by a few local people interested only in short-term exploitation¹⁵⁷. Scientific investigations, stimulated by the initial study, were also beginning to reveal the rich diversity of archaeological and scientific assets of the island, hence the pressure for conservation gradually strengthened¹⁵⁸.

FIDO's efforts to garner support had already reaped a major benefit earlier in 1973, when the Whitlam Government's Committee of Inquiry into the National Estate had visited Fraser Island during its inspection of key areas requiring protection as part of Australia's national heritage¹⁵⁹. The conflict between sand mining and conservation along Australia's coast was addressed in the Final Report of the Committee of Inquiry. The Committee attacked the history of Government response to environmental conflict between mining and conservation groups by stating:

155 Stanton J., *A Report on Fraser Island*, op. cit.

156 *Moonbi* was produced newspaper style at cheap cost, but the content was always informative with considerable emphasis on diagrams and photographs to illustrate the impact of sand mining on environmental values. In short, a highly persuasive public relations device.

157 The Australian Conservation Foundation played an important role in promulgating this message.

158 *Final Report of the Fraser Island Environmental Inquiry*, op. cit., Chapter 6 and List of Exhibits.

159 Commonwealth of Australia, *Report of the Committee of Inquiry into the National Estate*, September 1974, Government Printer of Australia, Canberra, 1975.

' The low priority generally given to nature conservation and to land-use planning, and the inadequacies of government decision-making machinery exacerbate these conflicts and, in mining questions especially, tend to lead to compromise solutions or outright victory for anti-conservation interests. Both are inappropriate in special areas such as Myall Lakes and Caloola and the high sand masses. The conflict between sand mining and retention of the natural environment is absolute. Since opencast mining automatically involves destruction of the natural vegetation, it is quite incompatible with complete preservation of virgin lands in national parks and scientific reserves.' 160

The tenor of the Committee's recommendation for the proper resolution of sand mining controversies echoed FIDO's general goals:

' Sand mining should be regarded as only one of a number of competing uses. The existence of minerals should not be the sole or even principal criterion in deciding whether it should take place. The temporary and often, for Australia, relatively small financial returns to sand mining, have to be weighed against our permanent and irreplaceable Coastal Heritage. Mining on vulnerable and important parts of the coastline should not be allowed at all, and when it is proper to allow mining, its operations and any revegetation programmes should be under very strict and continuing supervision. Legislation must ensure observance of the conditions, if necessary by imposing stronger penalties.' 161

The Committee of Inquiry into the National Estate recommended that the Australian Government use its power over foreign trade to embark on 'a strong exercise of export controls to prevent unwise sandmining.'¹⁶² In February 1973, John Sinclair had visited Canberra to press the case for conservation of Fraser Island and had been advised that although the Australian Government could not intervene directly in the affairs of Queensland, no export approval was likely to be granted after 1 January 1974 for materials which had a severe environmental effect, until appropriate impact studies had been completed or a public inquiry held¹⁶³. Although the Environment Protection (Impact of Proposals) Act was not finally passed by the Australian Parliament until December 1974, the

160 *Ibid*, p. 67.

161 *Ibid*, p. 120.

162 *Ibid*, p. 258.

163 Sinclair's visit to Canberra coincided with the Whitlam Labor Government's attempts to initiate new environmental policies.

Whitlam Government had earlier announced that it would abide by the principles pending the passage of the legislation. In July 1974 the Prime Minister wrote to the Premiers of Queensland, Western Australia and New South Wales, informing them that he would carefully review any new mineral export proposals for adverse environmental effects and would require full environmental impact statements when appropriate. Eco-activists accepted these statements in good faith and did not lobby heavily for implementation, assuming that everything was under control¹⁶⁴. However, the situation in Canberra was confused and the commitments were not honoured.

In November 1974 the Minister for Minerals and Energy, the Hon. Rex Connor, wrote to the Prime Minister indicating his intention to approve export contracts for minerals from Fraser Island sand mining. However, he did not notify the Minister for the Environment, the Hon. Dr Moss Cass¹⁶⁵. The Prime Minister's staff sent a copy of Mr Connor's letter to the Department of the Environment for comment and the Department immediately responded with a curt letter opposing the export approval. Despite that opposition, on 24 November 1974, the Prime Minister directed his Minister for Minerals and Energy to approve the export contract. Mr Connor moved quickly to grant the approval, but not quick enough to save the Whitlam Government from considerable embarrassment, for his actions contravened the proposed guidelines of the Environment Protection Act¹⁶⁶.

It was seemingly a matter of deliberate intent, rather than inadvertent mistiming. On 11 December 1974 the Australian Parliament passed the Environment Protection (Impact of Proposals) Act, which changed the requirement that EIS be filed prior to the consideration of export licences from a Cabinet directive into a statute of Parliament. But the Act still had to receive

164 During the early 1970s, conservationists displayed some naivety about environmental politics, falsely assuming that the community's favourable attitude towards environmentalism would be transferred to the political arena.

165 Evidence obtained from correspondence and reports in the files of the Australian Conservation Foundation, Melbourne.

166 *Ibid*, note also supporting evidence in *Moonbi*, No. 21, December 1974 and No. 22, February 1975.

the Royal Assent by the Governor-General, and on 13 December 1974, during the six-day interval between passage and assent, Mr Connor wrote to Dillingham-Murphyores to approve the export of minerals from Fraser Island. The export contracts were thus approved without compliance with any environmental impact statement procedures¹⁶⁷. None of this was public knowledge until well into 1975. Certainly the conservationists seemed unaware that Commonwealth controls were at risk, or that more forceful lobbying might have resulted in prompt and full compliance with the environmental statute. Viewed in retrospect, it was only John Sinclair's determination to make Fraser Island a national issue that ensured that Canberra was committed at all¹⁶⁸.

Suddenly, in late February 1975, Dillingham-Murphyores claimed it had been granted export permits for its Fraser Island minerals. John Sinclair and FIDO quickly despatched telegrams of protest, letters and press releases to Canberra. The national media gave the issue headline coverage and a bitter Cabinet wrangle ensued over the 'Fraser Island affair'¹⁶⁹. Whitlam's Environment Minister, Dr Cass, publicly announced that he had not known of Mr Connor's issuance of the letter of approval. On his own initiative, Dr Cass flew to Fraser Island to inspect the areas involved and to meet the advocates and opponents of sand mining. On his return to Canberra on 25 March 1975, Dr Cass announced that despite export approval, his Department would hold a full-scale environmental inquiry under the provisions of the Environmental Protection (Impact of Proposals) Act¹⁷⁰. Queensland's development-orientated Government condemned the Minister's decision, claiming that it constituted federal interference in the affairs of the State¹⁷¹. To many conservationists the Commonwealth action seemed rather

167 *Ibid*, note also Gilpin A., *The Australian Environment : Twelve Controversial Issues*, *op. cit.*, pp. 107-108.

168 Sinclair had travelled to Canberra to lobby politicians face to face and had bombarded each politician with photographs and other factual documentation.

169 Gilpin A., *op. cit.*, pp. 107-110.

170 *Moonbi*, No. 23, April 1975.

171 *Moonbi*, No. 23, also newspaper reports late March 1975.

late. Despite vigorous lobbying, federal parliamentarians had turned a deaf ear to the Fraser Island issue for a number of years and the local members had tended to support the developers. Obviously the conservationists had failed to perceive that Commonwealth powers might be used as leverage against State mining approval; their focus was solely on traditional methods of lobbying the legislature. Now a new attitude was promised by the Australian Government, but the mining companies were scheduled to begin dredging on Fraser Island on 1 May 1975 and the public inquiry would not begin until 1 June 1975 at the earliest¹⁷².

The mining consortium refused Dr Cass's suggestion that dredging be delayed until after the inquiry had reported, while the Queensland Chamber of Manufacturing took a stand for development:

' This Chamber supports the view that the natural industrial resources of Australia will be of limited value to the people unless they are used. It would all be very simple if we could go off to the Antarctic or the Sahara Desert in order to find the primary resources needed to supply the materials we would like to use.' 173

The Australian Conservation Foundation took an opposing view, arguing that the affair tested the sincerity of the Whitlam Government's commitment to environmentalism:

' Clearly we have come to the crunch as far as this Government is concerned. In the current economic situation, it is not prepared to act on its environment principles.' 174

There were hidden factors which the Whitlam Government had to consider carefully. It had apparently acted against its own environment policy, only to have one of its Ministers attempt to redress the situation. But Mr Whitlam's agreement to export approval for Fraser Island minerals had come during the election campaign for the Queensland Parliament.

172 *Moonbi*, No. 24, June 1975.

173 *Ibid.*

174 Press statement issued by the Director, Australian Conservation Foundation, Melbourne, April 1975. (Note also the call to subpoena Fraser Island documents, 26 May 1975).

Unemployment was growing and threatening to go much higher, and the Liberal-Country Party Opposition in the Australian Parliament were using the sorry condition of the national economy as a focal point of discussion¹⁷⁵. The Prime Minister was actively campaigning on behalf of the Labor Party candidates from Maryborough who were seeking seats in the Queensland Parliament, hence he could not afford to be seen to oppose a local industry which offered employment opportunities. Nonetheless, the Connor-Whitlam agreement to grant export approval came a trifle late and did not gain publicity in time for the Queensland election¹⁷⁶.

7.9.3 Cabinet Confrontation

In May 1975 the Minister for the Environment intensified his confrontation with the Minister for Minerals and Energy. Dr Cass noted the difference between Australian Government approval for a company to enter into export contracts and the actual granting of export permits. He suggested to the Prime Minister and Mr Connor that they use a technicality to defer final export approval until after the Fraser Island environmental inquiry had reported. Mr Connor curtly refused to accept this proposal¹⁷⁷. In a letter to Dr Cass he claimed that approval of export contracts placed an obligation on the Government to grant export permits. The Prime Minister agreed with Mr Connor's view and refused to reply to Dr Cass's suggestion that final export permits be delayed. In an interview in Queensland he argued that control of exports had come too late to prevent some environmental destruction and that the federal Government should not intervene in a project which the Queensland Government had already approved subject to ostensibly stringent safeguards¹⁷⁸.

175 The major expenditures of the Whitlam Government on social policies and urban development were creating stresses in the Australian economy. These pressures were exacerbated by wage push inflation.

176 Approval to export was not finally granted until July 1975.

177 Extensive notes on these matters are contained in the files of the Australian Conservation Foundation, Melbourne. Note also the chronology in Gilpin A., *op. cit.*, pp. 112-114.

178 Mr Whitlam's Government was undergoing internal strains and external criticism. He was anxious not to alienate the Queensland Government as well, despite different political complexion.

This was a curious piece of reasoning, given the Whitlam Government's supposed commitment to environmental concern and its intervention in a wide variety of matters affecting the States¹⁷⁹. Any attempt to control exports must inevitably involve projects already approved or in operation. The Prime Minister appeared to assume that decisions made in a Queensland Mining Warden's court were evidence of a comprehensive environmental inquiry, which was far from the case. The only explanation of the Whitlam perspective is that it was a pragmatic political consideration. Whitlam had staked his election on promises to deal with Australia's major urban problems; there were votes to be won from suburbanites discontented with urban planning. Environmentalism was insignificant by comparison and Whitlam was also conscious of Labor's limited support in Queensland; he was therefore anxious not to upset voters in that region and believed the conservationists were a minority¹⁸⁰.

The Minister for the Environment viewed the situation quite differently. The change from a Liberal-Country Party coalition to a Labor Government in December 1972 seemed to have been welcomed by conservationists of all kinds. The Committee of Enquiry into the Lake Pedder dispute in 1973 showed that intervention by the federal Government would gain Australia-wide approval, even if the local communities involved were resistant to national initiatives¹⁸¹. 'No more Lake Pedders' became the slogan of Australian environmentalists and it was obvious that strong pressure would mount on the federal Government to take action whenever a State conservation controversy arose. Furthermore, the recommendations of the Lake Pedder Enquiry placed the onus squarely on the national Government to ensure that recreational, scientific and aesthetic values were taken

179 Mr Whitlam did not entirely share the perspective of his Minister for the Environment, Dr Moss Cass.

180 Minorities can still generate much discomfort for politicians. The Prime Minister failed to recognise the capacities and persistence of FIDO.

181 The Australian Government had been warmly commended by the media and the public for its actions in the Lake Pedder case.

into account in project evaluations and that federal leverage of various kinds (financial or regulatory) was applied to the States to require environmental impact assessment before Australian Government approval or support would be granted. Conservationists had been assured by Dr Cass that the lessons of the Lake Pedder case had been learnt and that procedures would be improved as a result¹⁸².

Dr Cass was aware that the Whitlam Government's handling of the Fraser Island dispute violated every principle evolved by the Lake Pedder Committee of Enquiry. He had to insist on an inquiry on the Fraser Island issue if his environmental programmes were to retain credibility; moreover various conservation groups around Australia were already pressing him in this direction¹⁸³. Confronted by an intransigent Prime Minister his only hope was to raise the stakes and appeal directly to the Cabinet itself or the Labor Caucus. Fearing defeat in Cabinet, Dr Cass privately put his case to some Cabinet colleague, but opted for discussion by the Caucus. He described the sequence of events to the Caucus, arguing that Mr Connor's actions constituted '... one of the most extraordinary decision-making processes ever espoused by any democratic government'.¹⁸⁴ His appeal to the Caucus was a shrewd move, for despite the Opposition's jokes about 'Labor's faceless men' in Caucus, that body, at least in theory, can bind the Cabinet and Prime Minister by its resolutions. Caucus, not the Prime Minister, nominates the members of Cabinet, although the Prime Minister can allocate the portfolios to whomever he chooses from among the nominees¹⁸⁵.

182 Statements made in April-May 1974, following release of the *Final Report of the Lake Pedder Committee of Enquiry*, April 1974.

183 By mid-1974, a number of conservation groups were lobbying the Australian and Queensland Governments to save Fraser Island from sand mining.

184 Dr Cass believed Caucus members were sensitive to environmental issues and that popular support existed for conservation of Fraser Island, given that the federal Government had failed to save Lake Pedder.

185 The hazards of such a policy are discussed in Holmes J. and Sharman C.G., *The Australian Federal System*, *op. cit.*, Chapter 7.

As the Caucus Urban Affairs Committee had concerned itself with environmental issues, Dr Cass's referral lodged there even though the matter was clearly outside urban jurisdiction. In July 1974 the Urban Affairs Committee had passed a motion to seek information on ' . . . all sand mining approvals, alternative sources of supply and the feasibility of asking companies to fulfill their contracts from non-sensitive areas.' ¹⁸⁶ The Committee had already briefly considered the Fraser Island dispute on two occasions early in 1975, but had deferred a decision pending further discussions between Dr Cass and Mr Connor. ¹⁸⁷ By 22 April 1975 it was clear that Dr Cass's efforts had failed. Despite a motion by the Urban Affairs Committee calling for the 'suspension' of the export permits pending completion of the environmental inquiry, the question was tabled in Caucus and no discussion occurred until mid May when the resolution was put to the meeting on the voices. The motion was approved but as many members were absent and the issue was so significant, the question was referred back and placed on the agenda at the next full Caucus session. The environmentalists had managed to elevate the Fraser Island dispute to a national level, but the decision process was becoming so highly politicised that rational evaluation had vanished ¹⁸⁸.

Dr Cass was prepared for a final confrontation, but so too was the Minister for Minerals and Energy, Mr Connor. An experienced and shrewd politician, Mr Connor was heavily engaged in resources diplomacy involving overseas loans, sensitive foreign policy decisions and 'economic nationalism'. ¹⁸⁹ The Minister was anxious that conservation controversies should not disrupt

186 Newspaper reports, July 1974.

187 Information in records of the Australian Conservation Foundation, Melbourne. See also Gilpin A., *op. cit.*, p. 113.

188 Note equivalent comment in Chapter 3. Polarisation amongst participants in the political arena leads to point-scoring rather than rational evaluation of options.

189 Smith G., 'Minerals and Energy', in Patience A., and Head B. (Eds.), *From Whitlam to Fraser*, *op. cit.*, pp. 237-242.

his grand strategies and delicate negotiations, hence he was out to kill the Fraser Island issue once and for all. But he had many difficulties to overcome. His various power plays had made many enemies within the Labor Caucus and many people objected to the heavy-handed manner in which he pushed his policies and programmes through Cabinet, as well as the 'veil of administrative secrecy, obstructionism and general lack of co-operation' which characterised his department¹⁹⁰. The Fraser Island confrontation between Connor and Cass gave the disgruntled back-benchers an opportunity to rebuff Mr Connor and serve Whitlam with notice of their displeasure with his Minister for Minerals and Energy. Rex Connor called their bluff by announcing that the showdown would be a test of confidence and that he would resign his post if Dr Cass's resolution to defer final export approval was passed¹⁹¹. After an extremely heated and damaging two and a half hour meeting, the Cabinet at the insistence of the Prime Minister backed Mr Connor. Mr Whitlam's firm support of Mr Connor was a deliberate challenge to Caucus, since he forced that body to determine whether sand mining on Fraser Island was so important as to justify a bitter division within the Cabinet at a time when elections might be imminent. As a result, Caucus, by the narrowest of margins (one vote, presumably that of Mr Connor himself), turned down the Cass resolution¹⁹².

Dr Cass pushed on with his environmental inquiry despite the fact that final export permits might be granted before it reported. Although Dr Cass emerged from the Caucus vote as a man of principle to Australian environmentalists, the image of the Whitlam Government was badly tarnished by the affair. After he lost the Caucus vote it seemed inevitable that Dr Cass would be removed from the Environment portfolio and within one month

190 *Ibid.*, pp. 239-240.

191 Bambrick S., *Australia's Minerals and Energy Policy*, *op. cit.*, pp. 22-24.

192 Newspaper reports, May-June 1975. (Caucus decision 20 May 1975).

he was replaced and appointed as Minister for the Media¹⁹³. Loss of the Caucus vote had other repercussions as well, since it effectively downgraded the Environment portfolio within the relativities of the Labor Party priorities. In quick succession the Environment portfolio passed through three changes of minister, indicating the token nature of political commitment to conservation and its low order of priority on the Government agenda¹⁹⁴. For a brief period in July 1975 the Prime Minister himself temporarily assumed the office, while he pondered whom to nominate as full-time minister. After some procrastination, Dr Jim Cairns was assigned to the post, but he too became a victim of Cabinet disarray and his successor, Mr Joe Berrison, barely had time to assume office before the Whitlam Government fell in November 1975¹⁹⁵.

7. 9.4 The Fraser Island Environmental Inquiry, July 1975-October 1976

Meanwhile the Environmental Inquiry was in progress from mid July onwards. After a false start, two Commissioners, Messrs. A.B. Wickes and J. Hookey, were appointed on 12 July 1975 to conduct an inquiry:

'...in respect of all of the environmental aspects of the making of decisions by or on behalf of the Australian (Commonwealth) Government in relation to the exportation from Australia of minerals (including minerals that have been subjected to processing or treatment) extracted or which may hereafter be extracted from Fraser Island in the State of Queensland.' 196

Four advisers to the Commission were also appointed under Subsection 11(2) of the Environment Protection (Impact of Proposals) Act. They were Dr G. Linge, Mr C. Loorham, Associate Professor G. McColl and Dr P. Stevens¹⁹⁷.

193 The Labor Cabinet was in some turmoil at this stage because of internal differences of opinion and major external criticism from a variety of sources.

194 This low priority is evident in State portfolios as well.

195 Note media reportage July-November 1975.

196 *Final Report of the Fraser Island Environmental Inquiry, op.cit.*, Preface.

197 *Ibid*, p. (x).

The Act states that an inquiry may be conducted in respect of the environmental aspects of the matter, whether or not an EIS has been prepared; in this particular case no EIS was available¹⁹⁸. The Commission advertised the terms of reference of the Inquiry in the Australian Government Gazette and the national press. So great was public interest in the case, and so extensive and complex the evidence, that it was necessary to conduct public hearings for 31 days between 5 August and 3 October 1975. This was so, even though most witnesses tendered written evidence which, after verification, was accepted. In all, oral evidence occupied 3496 pages of transcript and 658 exhibits were placed before the Commission by the 74 witnesses who appeared¹⁹⁹. The Commission and its Advisers also viewed a number of places and activities, including sand mining and rehabilitation areas on Fraser Island and elsewhere in Queensland. They were accompanied on these inspections by representatives of conservation groups and mining interests. The First Report of the Commission was submitted to the Minister of State for Environment (Commonwealth Government) on 1 December 1975. The Final Report was submitted on 21 December 1976²⁰⁰.

Dillingham-Murphyores refused to appear at the Inquiry, instead it launched a court challenge to the constitutionality of the Australian Government's environmental inquiry procedures. The other Fraser Island sand mining company, Queensland Titanium Mines, did not participate or call witnesses. Former consultants to Dillingham-Murphyores also appeared and the Commissioners concluded that this provided adequate evidence on the operations of Dillingham-Murphyores²⁰¹. As previously noted, the

198 FIDO had frequently requested both the Queensland and Australian Governments to demand an EIS, but no action had been taken.

199 See lists of witnesses and exhibits in the *Final Report*, *op. cit.*

200 The *First Report* (December 1975) is contained in the *Final Report* (December 1976) as Appendices III and IV.

201 *Final Report*, *op. cit.*, p. 5.

Inquiry's terms of reference required it to:

'... be conducted in respect of all the environmental aspects of making of decisions by or on behalf of the Australian Government in relation to the exportation from Australia of minerals (including minerals that have been subjected to processing or treatment) extracted or which may hereafter be extracted from Fraser Island in the State of Queensland.'

The key words were 'making of decisions', since this implied future as well as past actions. In any case, the Fraser Island export contract approvals had been made subject to certain conditions. One stipulation was that every condition imposed by the Queensland Government when it approved the mining leases should be strictly adhered to. Another was that there should be an annual review by the Australian Government to determine if the lease conditions were being met²⁰².

The Fraser Island Environmental Inquiry issued its First Report on 1 December 1975. The principal issue at stake was the Australian Government's 'decision' to review the export contracts and the prospective renewal of export approval for another year. If it could be shown that the conditions of the lease had been broken, there would be grounds for refusal to renew the contracts for a second year²⁰³. FIDO had been closely monitoring the sand mining operations and John Sinclair had taken aerial photographs of the extent and impact of the mining operations. In August 1975 he discovered that the retaining wall of a dredge-pond had collapsed and was spilling into a creek, in violation of the lease conditions. His calculations also led him to believe that Dillingham-Murphyores were working an area in excess of 30 hectares, although the lease conditions prohibited having more than 10 hectares unrehabilitated or re-landscaped at any one time²⁰⁴.

202 The limits of Queensland environmental legislation are discussed in Huxley W., Harrold A., Wyvill L., *The Application of Environmental Legislation in Queensland*, The Caloola Committee, Brisbane, 1980.

203 *Final Report*, *op. cit.*, p. 245.

204 *Ibid*, pp. 108-110; also Chapter 10, pp. 176-197. Note also *Fraser Island Special Mineral Leases : Transcript of Proceedings*, Australian Government Publishing Service, Canberra, 1976.

The First Report of the Inquiry verified these and other charges levelled at Dillingham-Murphyores in Mining Lease 102. They had indeed discharged water into Second Creek in violation of Special Condition 23(c) and had left an area of approximately 25 hectares unrehabilitated, although 20 hectares was the permissible limit, because two 'installations' were purported to be in operation²⁰⁵. The Inquiry also found that in mining operations, tailings had been piled on the banks of the creek, and a channel had been excavated by dredging and blasting to divert water from Second Creek. This was in breach of Special Condition 24 which specified that all mining activities must be at least 20 metres from the creek. If mining conditions continued as planned, the Inquiry believed more violations of the Special Conditions would occur. If mining took place above two perched lakes it would result in a seepage of water affected by tailings and fertilisers used in revegetation. The Commissioners concluded that the risks were too great to permit mining, even if occurring outside the buffer zones originally established by the Special Conditions in the lease²⁰⁶.

The Commission of Inquiry thus generally foreshadowed the likely posture of its Final Report. It found the Special Conditions inadequate to protect Fraser Island from the environmental effects of sand mining. The Queensland Government could change the conditions at will and had already done so. Originally one of the conditions had forbidden the removal of water from Second Creek, but after Dillingham-Murphyores had dredged a channel and constructed a pipeline, the conditions were amended to allow pumping of an unlimited supply. Other more important conditions could be changed just as easily to the detriment of the environment²⁰⁷.

205 Principal conclusions of the *First Report* are summarised in the *Final Report*, pp. 242-245.

206 *Ibid*, p. 242.

207 *Ibid*, p. 243-244.

The Commission attacked the Special Conditions which required rehabilitation of dredged areas. The requirement that the mined sections be backfilled and graded 'to conform to the surface of the adjoining land' was vague and had resulted in the final topography being substantially altered and reduced, with consequent changes in vegetation. Indeed, doubt existed as to the general viability of revegetation measures. Even if the Special Conditions were precisely followed, it seemed likely that '... serious environmental harm would nevertheless be caused'.²⁰⁸ Reliance on the Special Conditions imposed by the Queensland Government was '... an undeniably risky method of performing the environmental obligations of the Australian Government'. The First Report therefore recommended that all of Fraser Island be registered by the Australian Heritage Commission as an important component of the National Estate. As to the renewal of mining contract approval, the Report made alternative recommendations. Approval of export of minerals for a further year should be deferred until after the Commission's Final Report, but if a deferment was not possible then approval should not be granted.²⁰⁹

The conservationists were at first elated about the recommendations, but it soon became apparent that implementation might not occur. By the time the First Report of the Commission was publicly released, Prime Minister Whitlam was out of office. The dramatic political events of November 1975 need not be recounted here; suffice it to record that the federal Labor Government fell and a Liberal-Country Party coalition came to power.²¹⁰ In its first flush of enthusiasm for office, the new Government of Prime Minister the Right Hon. Malcolm Fraser accepted the

208 *Ibid*, pp. 191 and 243.

209 *Ibid*, p. 245.

210 Patience A., and Head B., (Eds.), *From Whitlam to Fraser*, op. cit., 'Notes on Federal Politics' (pp. i-ii).

Commission's recommendation that it defer blanket approval of the export contracts until after the Final Report. But the Government also deferred the Final Report. By 1 April 1976 (the date on which funding of the environmental inquiry expired) the report had still not been released. The new Australian Government then moved to grant export approval for Fraser Island minerals, but on a shipment by shipment basis in order to keep its pledge not to extend an additional one-year blanket approval²¹¹. In May 1976 Prime Minister Fraser informed the Australian Conservation Foundation that his Government was only continuing the Fraser Island policy established by the Whitlam Government. Mr Fraser claimed that '... this policy calls for a continuing scrutiny of the company's operations to ensure that it is honouring its environmental obligations and for issuing Dillingham-Murphyores Minerals with export approvals only on a shipment by shipment basis pending the consideration of the full Report of the Fraser Island Environmental Inquiry.'²¹²

FIDO claimed that this was blanket approval under another name. The policy of the Fraser Government constituted '... a general approval which allows Dillingham-Murphyores to virtually automatically gain export licences every time they seek them, as they have ever since the Fraser Government took office.'²¹³ Neither the violations of the Special Conditions described in the First Report of the Inquiry, nor those subsequently discovered by John Sinclair and FIDO, seemed to impress the federal Cabinet. Yet FIDO had made some progress, since its use of the Environmental Protection (Impact of Proposals) Act had placed pressure on the Queensland Government to ensure that environmental safeguards were respected at least in token form; while at the Commonwealth level, grounds now existed and had been identified for cancelling Dillingham-Murphyores export approval²¹⁴. Mr Fraser's Minister for the Environment (the Hon.

211 *Moonbi*, No. 28, 15 April 1976, p. 6.

212 Information from Australian Conservation Foundation files.

213 *Moonbi*, No. 28, 15 April 1976.

214 Both ACF and FIDO were urging cancellation of export approval, but the Commonwealth considered that the licence should not terminate immediately.

Senator L. Greenwood) quietly sent an inspection team to Fraser Island early in April 1976 to investigate John Sinclair's charges of new violations of the lease conditions, and the Minister himself visited Fraser Island later in the same month. A strange silence occurred after each inspection. It seemed the Fraser Government wished to extricate itself from the environmental programmes of the Whitlam era, but were unable to find an easy way of doing so without causing a public outcry. It was difficult to disavow the findings of the independent Commission of Inquiry into Fraser Island sand mining, so procrastination became part of the Government's strategy²¹⁵.

7.9.5 Impact of the Final Report, October 1976

On 25 October 1976 the Final Report was at least released. True to the tenor of the First Report, the Final Report recommended that Fraser Island should be registered as a unique portion of the National Estate, and that sand mining be allowed, if at all, only below the high water mark on specified portions of the east coast beaches²¹⁶. Only if confined to the beaches was sand mining on Fraser Island:

'... unlikely to be associated with significant permanent environmental harm to the island, provided that sand mining operations and all activities on the island associated with them, are conducted in such a way as to minimise their environmental impact and in particular so as to avoid all direct and indirect harm to the foredunes and other sand-masses of the island.' 217

The Commission of Inquiry listed the following probable consequences of continued sand mining on Fraser Island:

'... (g) the vegetation and other components of the ecosystem of mined areas will be completely destroyed and, as a result, the vegetation and other components of ecosystems on contiguous areas will be subjected to greater exposure and consequential harm;

215 Senator Greenwood had conducted discussions with ACF in Melbourne on 26 March 1976, but was anxious not to take decisive action until the Final Report of the Commission of Inquiry was released.

216 *Final Report, op. cit.*, p. 206.

217 *Ibid*, p. 205.

(h) major topographical changes will be wrought on mined areas, resulting overall in the creation of flatter, more subdued and more uniform topography;

(i) the restoration of vegetation on mined areas will be impossible;

(j) the successful rehabilitation of any rain forest affected by mining will be impossible;

(k) the successful rehabilitation of other vegetation affected by mining will be unlikely;

(l) on the balance of probabilities, changes in the hydrological balance of perched and water table window lakes, creeks and swamps will take place which are likely to result in changes of water level and harm to ecosystems;

(m) on the balance of probabilities, substances will be added to water bodies which are likely to affect significantly their ecosystems;

(n) sites of archaeological and geomorphological significance will be destroyed;

(o) the unifying impression of wilderness which is fundamental to the environmental significance of the Island as a whole will be lost; and

(p) most of the environmental characteristics which make the Island of great significance and importance to the people of Australia as a whole will be destroyed.' 218

In total, the Final Report was a telling compendium of the likely environmental disaster which would befall Fraser Island if mining continued. John Sinclair, FIDO and the Australian Conservation Foundation, were pressing Canberra hard for cancellation of Dillingham-Murphy's export licence, but Sinclair remained only guardedly optimistic that the conservationist viewpoint would prevail. FIDO's case had been vindicated, but politics and lobbying by the minerals industry had intervened, and it was not entirely clear how Prime Minister Fraser would react to the conclusions of the Environmental Inquiry²¹⁹.

A scant twelve weeks before the release of the Inquiry's Final Report, John Sinclair had been given an openly hostile reception by the

218 *Ibid*, pp. 198-205.

219 *Moonbi*, Nos. 26 & 27, late 1975 and early 1976.

Fraser Government's latest Minister for the Environment (the Hon. K.E. Newman) during the latter's visit to Maryborough. Mr Newman had accused FIDO of publishing 'untruths' and had attacked FIDO's 'temerity' in its constant attacks on the decision-making processes of the Commonwealth and Queensland Governments. As a final insult, Mr Newman informed John Sinclair ' that he would prefer to deal with sand miners than conservationists.'²²⁰ Sinclair had been somewhat disheartened by this encounter with the Federal Minister and FIDO had publicly castigated Mr Newman's views as 'incredible'. FIDO questioned how conservation could be achieved when the Environment Minister himself was openly hostile to conservationists, and whether the public would be justified in urging his replacement²²¹.

7.9.6 The Conservation Victory, November 1976

Sinclair and FIDO prepared themselves for a long delay while the Fraser Government digested the Final Report and worked on an alternative to the curtailment of sand mining. On 10 November 1976, to the amazement of everyone, Prime Minister Fraser announced that, except for mineral sands extracted from beach areas on the east coast as recommended in the Final Report, no export approvals would be granted for mineral sands from Fraser Island after 31 December 1976. It was a stunning acceptance of every recommendation of the Final Report²²². Conservationists throughout Australia were jubilant, but at a loss to understand why Mr Fraser had acted as he did. The mining lobby were equally bewildered but reacted promptly by vigorously disputing the decision. Some environmentalists claimed that Mr Fraser had always been sympathetic to conservation, although at odds with the tactics of many environmental groups. Malcolm Fraser had been a foundation councillor of the Australian Conservation Foundation when it was formed as a somewhat 'establishment' institution in the 1960s.

220 Data from Australian Conservation Foundation records.

221 As previously noted, there had already been a succession of Ministers for the Environment at short intervals.

222 *Moonbi*, No. 31, December 1976, p. 1.

Other conservationists suggested that the Prime Minister had reached his decision in the temporary absence from the political arena of the Leader of the Country Party and Minister for National Resources (the Hon. D.A. Anthony) who was a strong advocate of mineral development. In effect, it appeared as if the Department of National Resources which normally would have been expected to offer strong opposition to any anti-mining policy, was unable to effectively counter the Department of the Environment's support for the Final Report²²³.

Undoubtedly, the depressed world market for mineral sands also influenced the decision. Dillingham-Murphyores had negotiated contracts for export mineral sands in 1974 when world prices were high. By August 1976 world prices had plunged to one-third their 1974 levels. The American importing company and Dillingham became embroiled in a price dispute which led the American customer to abrogate its contract with Dillingham-Murphyores and refuse further shipments from Fraser Island. When Dillingham-Murphyores failed to find new customers for its Fraser Island production, the company secretly drafted plans to terminate its Fraser Island operations²²⁴. Apart from its ritual public complaint, Dillingham-Murphyores may therefore only have been voicing token disapproval when informed of Mr Fraser's acceptance of the recommendations of the Final Report.

It was probable that the Government's adoption of the Final Report was a result of a political trade-off and not because of the persuasive effects of the factual evidence revealed by the Environmental Inquiry. The Fraser Government was in the process of trying to 'sell' the idea of uranium mining to a hostile and suspicious Australian public²²⁵. The

223 The decision process within Canberra was not documented, but discussion with public servants leads to the hypothesis recorded above.

224 *Moonbi*, No. 31 December 1976 and No. 32 February 1977 records details of Dillingham-Murphyores policies and problems.

225 *The Age* poll 'Attitudes to Uranium and Nuclear Power Policy', *The Age* newspaper, Melbourne 29 July 1976; Hayes D., Falk J., Barrett N., *Red Light for Yellow-Cake : The Case Against Uranium Mining*, Friends of the Earth, Melbourne, 1978.

second application of the Environment Protection (Impact of Proposals) Act had been an inquiry into the potential environmental impact of uranium mining and export (the so-called Ranger Inquiry). The first report of the uranium inquiry became available at virtually the same time as the Final Report of the Fraser Island Inquiry²²⁶. FIDO reported that the local Maryborough member of the Queensland Parliament was convinced 'there was something sinister in the coincidental release of the Hookey Report (on Fraser Island) and the Fox Report on uranium; and that Fraser Island was to be the sacrificial lamb being thrown to the wolves (conservationists) as a sop to enable uranium mining (sic) the green light.'²²⁷ This was not an implausible argument, and gained some acceptance within the Australian conservation movement.

Whatever the underlying reason for Mr Fraser's decision, it was the most significant conservation victory in Australia's history. One man, John Sinclair, and a group of dedicated supporters, had taken on the multi-nationals and three levels of government and had achieved success by careful public relations, sustained lobbying and a thoughtful appreciation of legislation and politics. The dispute over Fraser Island seemingly signalled a shift in Australian perceptions of nature conservation and the national heritage. Whether this new vision would prevail was a moot point. The 'bush' has always been viewed by the predominantly urban population of Australia as an alien and hostile land, an enemy to be subdued, a source of livelihood and prospective economic gain, if exploited²²⁸.

226 *Ranger Uranium Environmental Inquiry (The Fox Report): First Report 1976*, Australian Government Publishing Service, Canberra, 1976.

227 It is interesting that few observers credit the Prime Minister with a genuine desire to save Fraser Island. Altruism is not assumed to be part of politics, but may occur from time to time.

228 Davis B.W., 'National Parks and the Australian Heritage', Occasional Paper No. 27, University of Tasmania, Hobart 1980.

The victory of the conservationists at Fraser Island apparently heralded a new era; no longer could multinationals assume the unrestricted support of politicians; no longer could Australian governments assume that an indifferent public would ignore environmental despoliation; no longer need conservationists fear that every battle would be lost. Within the national consciousness there appeared the first faint stirrings of love for and pride in the Australian landscape²²⁹. In the future it might become a political factor with which legislatures would have to contend.

7.9.7 Aftermath of the Commonwealth Decision

The first jubilant commendations were soon replaced by a more sober assessment of the situation. Dillingham-Murphyores indicated their intention of continuing to fight the Commonwealth decision, seeking legal redress if feasible and endeavouring to use American Government influence to force the Australian Government to change its mind²³⁰. The Queensland Government also adopted an intransigent attitude, bitterly criticising federal intervention and deliberately delaying the investigation of alternative employment opportunities in the Maryborough area so as to bring maximum pressure to bear on federal parliamentary representatives²³¹. In another vindictive move, John Sinclair was transferred from teaching duties in Maryborough to a post in Brisbane in 1977, forcing him to commute home only at weekends. Environmentalists claimed that the Queensland Education Department had been directed to arrange the transfer in revenge for the Fraser Island victory²³². It was a paradox that at the very time Sinclair was being castigated locally, he was named 'Australian of the Year' in a nationwide poll for his dedicated service to the natural heritage and

229 Seddon G., & Davis M., (Eds.), *Man and Landscape in Australia*, Australian Unesco Committee for Man and Biosphere, Australian Government Publishing Service, Canberra, 1976.

230 Gilpin A., *op. cit.*, pp. 110-113. See also *Newsletter* of the Australian Conservation Foundation, April 1977.

231 *Moonbi*, No. 33, June 1977, pp. 1-4 re the 'mining industry backlash'. Gilpin A., *op. cit.*, p. 113.

232 For disclosure of this decision see *The National Times*, 30 September 1978, p. 7.

his demonstration that an individual could win a battle if the cause was just²³³. Other pressures were also accumulating for Sinclair who was engaged in fighting libel writs brought by critics who wished to silence him. In the latter enterprise they were unsuccessful.

Two other protracted disputes also arose. Sand mining interests claimed that the Environmental Inquiry had erred about revegetation and rehabilitation of previously mined sites and that regrowth was highly successful. FIDO quickly challenged this claim by producing a series of time-sequence photographs showing the scale of environmental damage²³⁴. The Commonwealth Government had intimated that Dillingham-Murphyores were to receive financial compensation for the termination of export licences and mining operations, but the company continued to press for amounts substantially greater than the Government's offer²³⁵. Despite a slump in world prices for rare minerals and ongoing losses by mineral sands operators, the Australian Mining Industry Council (AMIC) stepped up its lobbying in Canberra for reversal of the Fraser Island decision. It was not so much the viability or otherwise of Dillingham-Murphyores' prospects, as a matter of principle to the multinational companies that if the Fraser Island case was lost, other governments might be tempted to question the environmental impact of mining operations in their own jurisdictions. AMIC therefore sought not only the reversal of the Fraser Island decision, but also the repeal of the Environment Protection (Impact of Proposals) Act 1974 and three other major federal conservation statutes²³⁶. The Fraser Government has publicly resisted these pressures, but privately given ground to the extent of failing to strictly enforce the 1974 Act

233 *The Australian* newspaper, 1 January 1977, pp. 13-14.

234 FIDO's careful documentation of the impact of sand mining over several years proved extremely valuable during the environmental inquiry and for public relations purposes.

235 Gilpin A., *op. cit.*, pp. 110-113; *Moonbi*, No. 34, September 1977.

236 Bambrick S., *Australia's Minerals and Energy Policy*, *op. cit.*, pp. 127-130 and pp. 142-144.

in other situations as they arise. It has also announced that a review of all environmental statutes is in progress²³⁷.

7.10 ASSESSMENT OF THE FRASER ISLAND DECISION

The Fraser Island case demonstrated that in Queensland virtually no reliance could be placed upon EIS format, content or procedures; indeed the Mines Department does not even appear to have enforced the basic mineral exploration guidelines to any degree²³⁸. Almost inadvertently, the environmentalists discovered that national legislation might be used to prevent local excesses in environmental attrition. Even then it was not the existence of an EIS which proved decisive, but rather the procedural safeguard that a public inquiry could be conducted. The publicity surrounding public hearings proved more influential within the community and the legislature than any formal technical EIS might have done. The latter could have been internally conducted, with little public redress against ministerial discretion or judgment. It may be true that Prime Minister Fraser's decision was based more upon political expediency than the facts of the case; nonetheless debate about environmental impacts and the need for evaluation did ensure that ecological factors were eventually weighed against economic considerations²³⁹. In this sense the concept of environmental impact assessment served the conservation cause well.

237 See *Newsletter* of the Australian Conservation Foundation for claims of non-implementation of the Commonwealth legislation and discussion of a number of case situations.

238 *Final Report of the Fraser Island Environmental Inquiry, op. cit.*, pp. 190-192.

239 Chapters 8 and 9 of the *Final Report* assess regional and national economic effects of Fraser Island mining.

PART D : THE FUTURE OF ENVIRONMENTAL IMPACT ASSESSMENT

7.11 ASPIRATIONS FOR REFORM

The evidence presented in this Chapter explains why eco-activists remain doubtful about the utility of environmental impact statements. Encouraged by the apparent success of American legal actions, which have little prospect of being emulated in this country, the conservationists initially regarded environmental impact procedures as a useful means of questioning the validity and implications of development projects. Subsequently, eco-activists became dismayed at the token content and lack of enforcement of EIS provisions, believing them to be mere shams intended to mislead the public. Caught between such divergent perspectives, the current attitude is to advocate retention of the EIS technique and to seek improved methodology and sactions, but without recognising that the primary strategy which might strengthen environmental impact procedures is to reduce the discretion available to ministers and officials who dilute the application of ecological safeguards²⁴⁰. As revealed in the Fraser Island case, the intergovernmental dimensions of EIS also remain relatively unexplored in Australia as yet²⁴¹. Thus there are two prospective mechanisms of reform available to conservationists provided they can seize the opportunity. Instead, attention is focussed upon detailed disputation about the form and content of EIS compilation and evaluation, principally considering two factors:

- (i) the format, material and mode of presentation of impact statements as evidence upon which decisions are ultimately based; and
- (ii) the adequacy or otherwise of State legislative and administrative arrangements, including provisions for public participation.

240 Mosley notes this problem, but it has been overlooked by other conservationists. See Mosley J.G., 'The Assessment Process as it works within State/Provincial and Federal Governments', *op. cit.*, pp. 8-16.

241 The Australian Conservation Foundation attempted to use the federal EIS legislation to prevent a Japanese-financed tourist development at Yeppoon in Queensland, but failed to achieve *locus standi* (1979-80). No other case instances of intergovernmental leverage in EIS are reported in the literature.

Dealing first with the technical and scientific content of EIS, it is clear that environmental impact assessment methodology is still in its infancy, hence there is a need for parliamentarians and the community to be made aware that subjective judgment and some uncertainty are involved²⁴². One might expect conservationists to undertake this task but there is little evidence of such a campaign as yet²⁴³. Even if attempted, it would be difficult to overcome the obstacle of politicians who are interested only in token treatment of ecological issues and who blandly accept superficially executed environmental impact statements. The only redress available to conservationists is public exposure or judicial appeal, neither of which are assured in Australia²⁴⁴.

Given these difficulties and the vital need to draw the attention of decision-makers and the legislature to prospectively damaging ecological effects, it has been suggested that closer liaison should be established between environmental protection authorities and their development and conservationist clientele, so that substantive issues rather than procedural details may be dealt with²⁴⁵. One danger in such a liaison is that 'comfortable accommodation' may develop between the regulatory agency and its clients, but a safeguard exists if strong enforcement powers are provided elsewhere within the machinery of government to ensure that a 'second opinion' is available if standards fall²⁴⁶. Numerous benefits would be derived from improved dialogue, but a strengthened role for protection agencies would only prove feasible if existing staffing and financial provisions were increased.

242 Mathews W., 'Objective and Subjective Judgments in Environmental Impact Analysis', *Environmental Conservation*, Vol. 2, No. 2, Summer 1975, pp. 121-130.

243 The conservationists argue that errors in assessment occur, but problems of identifying and measuring impacts are rarely projected to the public or key decision-makers.

244 This judgment was reached on the basis of evidence in Chapters 6 and 7 respectively.

245 There is no guarantee that principle, rather than detail, would be examined, but if discussion is ongoing there is some prospect of identification of issues which participants consider significant.

246 It is not clear who would police the quality of decision-making, but presumably an institution central to policy-making, e.g. a Premier's Department or Central Planning Authority.

It has also been suggested that sequential environmental impact assessment should occur at various stages of project investigation and construction. The level of detail in each report would be appropriate to the stage of project investigation and implementation. Although plausible, the suggestion is likely to prove difficult to achieve in practice, although a learning experience could occur²⁴⁷. Important parameters may be overlooked, but there is intuitive merit in limiting initial evaluation of impacts at alternative sites, while requiring substantial detail when final investigation is under way: reconnaissances are generally more cursory than ultimate design.

If sequential environmental impact assessments were adopted, the amount of documentation should not greatly exceed that required under the present system, but there would be increased opportunity for public comment. Developers are wary of this notion, but recognise the advantages of 'sounding out' proposals instead of waiting until the completion of detailed designs, which often generate strong public reaction²⁴⁸. Eco-activists have proposed several ideas along these lines, but rarely with the persistence or conviction likely to persuade politicians. Despite claims about the ineffectiveness of EIS, conservationists reluctantly cling to the technique because it offers at least the prospect of debate about options.

There are few official reports or independent appraisals which review the validity or otherwise of the conservationists' claims. One source of information is the first Report of the House of Representatives Standing Committee on Environment and Conservation : Environmental Protection : Adequacy of Legislative and Administrative Arrangements,

247 Formby J., *Environmental Impact Assessment and the Decision-Making Process*, *op. cit.*, pp. 26-28.

248 The difficulty of publicising outline proposals in a manner comprehensible to the layman would need to be overcome. John Sinclair of FIDO has made specific proposals in this regard to various environmental inquiries.

October 1979²⁴⁹. The Report considered only federal experience with the EIS procedures and argued for a strengthening of the legislation, but it also proposed increased discretionary power for the Minister for Science and the Environment regarding application of the Act in particular circumstances. It is quite clear from the Report that a number of federal authorities are hostile to the legislation and are consciously involved in attempts to thwart its implementation²⁵⁰.

The Fraser Government did not adopt all of the recommendations of the Report, claiming that the Environmental Protection (Impact of Proposals) Act was 'undergoing review'²⁵¹. While the Standing Committee had argued for the detailed amendment of certain existing practices, the principal thrust of its recommendations was to urge that Commonwealth involvement in environmental impact assessment should be restricted to functional fields directly under the control of the federal Government, i.e. that the States should be solely responsible for EIS procedures within their own jurisdictions²⁵². This suggestion was undoubtedly a product of the Fraser Government's 'New Federalism' policy, since it argued for Memoranda of Understanding with the States about respective responsibilities. Critics of the Committee's Report argued that the suggestion was a clear abdication of Commonwealth responsibility for environmental protection throughout the nation and was an attempt to 'water down' the environmental statutes introduced during the era of the Whitlam Labor Government. Formby argued that it mattered little whether or not environmental controls were handed back to the States; the reality was that no Australian government

249 Commonwealth of Australia, *Environmental Protection : Adequacy of Legislative and Administrative Arrangements (First Report)*, Australian Government Publishing Service, Canberra, 1979.

250 *Ibid*, pp. 26 and 44 especially.

251 This response has been given by the Prime Minister to a number of parliamentary questions during the period 1979-81. There is no indication when the review will be completed.

252 Commonwealth of Australia, *Environmental Protection : Adequacy of Legislative and Administrative Arrangements, (First Report)*, *op. cit.*, pp. 5-12.

was paying more than lip service to environmental protection anyway and he could not see how this deficiency could be redressed²⁵³.

7.12 SUMMARY AND ASSESSMENT

The material in this Chapter demonstrates both the internal weaknesses and operational difficulties of environmental impact assessment in a federal system of government. Neither at national or state levels are adequate safeguards yet developed and the significant discretionary power granted to ministers and officials creates difficulties in achieving reform. The ambivalence of environmentalists towards the EIS technique has resulted in piecemeal attempts to obtain amendments to procedures, without getting to the root cause of extant problems. It would appear that conservationists have failed to recognise the implications of the Fraser Island case; that irrespective of the detail of EIS procedures, within a federal system of government it will always be prospectively feasible, by appropriate choice of instruments, to pitch one level of authority against another to advance the conservation cause²⁵⁴. If the Commonwealth wishes to utilise its many powers, or can be coerced to do so, ample authority is available. The situation is more varied and diffuse within the States, but here too the eco-activists may be able to identify methods of leverage. Success is likely to be achieved only if tactics are more discriminatory than at present.

In the interim, it is possible for conservationists to lobby for the reform of EIS procedures and, in so acting, they are likely to gain the open support of many academics and practitioners. Given this prospect, it is perhaps advisable to record some guiding precepts emanating from many sources, including environmentalists:

253 Formby J., *Environmental Policy Review and Project Appraisal : The Australian Experience*, op. cit., pp. 49-58.

254 This is less feasible at the State-local level than at the State-federal level, since local government has no constitutional legitimacy. Political leverage is possible nonetheless.

- (i) Environmental impact assessment needs to be carried out within an appropriate framework of local, regional and national planning, so that individual projects may be related to broader social and economic goals, and any trade-offs explicitly identified;
- (ii) There is a need for environmental impacts to be evaluated and incorporated at programme and policy levels, rather than specific projects being treated on a cosmetic basis. As yet many of the central policy and co-ordinative organs of Government, such as the Treasury and the Prime Minister's Department, pay scant heed to environmental issues. Other agencies are actively hostile to environmental protection and need to be persuaded to amend their viewpoint;
- (iii) Token attempts at public participation are undertaken at present, principally through selective consultation with interested or affected community organisations. Although many of these groups, such as the voluntary conservation organisations, possess considerable local knowledge and a wide range of interdisciplinary skills, little conscious effort seems to have been made so far to utilise such expertise. Limited financial support may be required, hence Government funding should be provided for the larger, well-established groups so that review and environmental information can be successfully produced²⁵⁵.

Although adoption and implementation of such innovations are primarily the role of Government, a responsibility rests with the conservation movement to espouse and promulgate the message. Regrettably, the current tendency of eco-activists is to complain about EIS procedures, rather than submit specific reforms to the legislature, or produce

255 Formby J., *Environmental Impact Assessment and the Decision-Making Process*, *op. cit.*, pp. 5-7. See also Everett P., 'Financial Assistance for Public Interest Group Participation in Environmental Decision-Making', *Environmental Law*, Vol. 10, 1980, pp. 481-515.

community-based environmental impact assessments which provide a contrast to corporate interpretations²⁵⁶. Unless these piecemeal tactics are abandoned, environmental attrition will continue and the conservation movement will have to accept some of the blame for the diminution of Australia's scenic heritage.

256 Runyan D., 'Tools for Community-Managed Impact Assessment', *American Institute of Planners Journal*, April 1977, pp. 125-135.

CHAPTER 8

SUMMARY AND CONCLUSIONS:

TOWARDS A THEORY OF AUSTRALIAN ENVIRONMENTALISM

8.1 THE INITIAL HYPOTHESES

At the outset of the thesis, two initial hypotheses were stated:

- (a) It was suggested that the nature conservation movement in Australia might possess more complex characteristics than much of the literature of political science had hitherto assumed; and
- (b) Within the field of environmental conflict, prospects of achieving reform of resource management practices appeared less feasible than many environmentalists expected, due to constitutional and institutional provisions of Australian government and its processes of decision-making.

It is now appropriate to examine these propositions in more detail, using evidence presented in the intervening chapters.

8.2 HYPOTHESIS A : THE AUSTRALIAN CONSERVATION MOVEMENT8.2.1 Validation of the Hypothesis

Validation of hypothesis (a) relating to characteristics of the Australian conservation movement may be derived from Chapters 2 and 3, where the sheer diversity of environmental groups and the complexity of their operations are recorded. Further confirmation arises in Chapters 4 to 7 inclusive, where it is apparent that various conservation groups have adopted different perspectives, priorities and tactics in pursuit of their objectives. By contrast with this empirical evidence, literature about the environmental movement seems unduly preoccupied with its political impact, rather than with structure and values, and tends to regard environmentalism as somehow offbeat, middle-class and inner-

directed, rather than altruistic. In this manner, comment by political scientists has proven superficial and simplistic. Evidence relating to these contentions is summarised below.

8.2.2 Characteristics of Environmentalism

In the initial chapter, the first problem was to define 'environmentalism' which was tentatively specified as:

' a social and political movement involving specific sets of beliefs about the relationship of man and Nature, generally antipathetical to existing modes of technology and natural resources utilisation.'

In Chapters 2 and 3, it was argued that even seminal texts on environmentalism lacked precise definition of the concept, moreover forms of environmentalism had changed over time in response to evolving views about the relationship of man and Nature. One of the central characteristics of environmentalism appeared to be dissatisfaction with prevailing forms of environmental policy and natural resources management, together with a firm desire to achieve reform of such practices. In this sense, environmentalism has become a 'quiet revolution' in gradually challenging many of the basic tenets of western industrial capitalism. Contrary to depiction solely as doomsaying critics of society, conservationists may be regarded as an optimistic, politicising and reformist social grouping, involving conviction that mankind is capable of resolving community ecological dilemmas through democratic processes. The environmental movement is not entirely altruistic, but it does acknowledge that homo sapiens is a social animal and unless individuals support the common good, anarchy will prevail and mankind's survival be placed at risk.

8.2.3 Role and Structure of the Australian Conservation Movement

The material presented in Chapter 3 of the thesis tends to confirm the claim that voluntary conservation organisations vary widely in aims,

membership, resources, leadership and operational style. More than one thousand environmental groups exist in Australia, with ambitions ranging from nationally orientated conservation societies to specific issue activism, together with many co-ordinative, research and support teams. No general alliance is discernible and the entire movement is marked by informal relationships, wide variations in values and substantial voluntarism. In common with other community institutions, the environmental groups suffer from problems of goal ambiguity and cohesion, due to factionalism, the loose affiliation of membership, and stresses induced by fund raising efforts. Yet their flexible organisational forms and unorthodox operational styles give them great survival capacity and their political influence cannot be gauged by membership numbers alone. Threats to cherished territory or certain environmental issues suffice to generate substantial manpower, funds and covert support within the community, where an active leadership and dedication to the cause gives such interest groups considerable powers of endurance. One of the vulnerabilities of the Australian conservation movement would appear to be its limited appreciation of the decision-making processes of government, but opponents of the movement are not devoid of errors or naivety either. The Australian conservation movement is becoming more sophisticated in its strategies, but the gradual onset of bureaucratisation raises interesting speculations about the future.

Literature concerning the Australian conservation movement tends to depict environmental groups as in constant conflict with government and developers. This is not entirely correct, as nature conservation societies fulfil a variety of other roles, as educators within the community, providers of expertise and research capacity, advocates for public participation in decision-making, watch-dogs on the bureaucracy and supporters of an ethical concern for Nature. In this sense, their tasks are far more varied than current literature suggests, hence hypothesis (a) would appear to be validated.

8.2.4 Supporting Evidence

Few authors have attempted detailed analyses of the Australian conservation movement, but some confirmatory evidence is available from authors such as Mosley, Burton and Figgis, whose work has been referred to earlier in the text. Mosley, for example, argues that conservation groups tend to be negative and reactive, rather than positive and forward looking, but he contends that limited changes in resource management practices have been achieved through the efforts of such groups and that their community activities in education and research have largely gone unrecognised by government. Mosley admits that environmentalists are often ignorant about political systems, but considers it essential for voluntary conservation groups to learn to deal with public authorities and the legislature, as well as convey their message to society¹.

Burton claims that some environmental groups still view issues in rather black and white terms and have an unfortunate tendency to prefer confrontation to negotiation. He also believes they are reluctant to recognise the viewpoints of others, but nonetheless is convinced that the Australian conservation movement has played a useful societal role in raising the level of environmental concern and debate throughout the nation. Burton recognises the diversity extant within the conservation movement and reminds us that value change occurs slowly within the community, but that discernible waves of environmental reform have occurred in recent decades².

Figgis contends that environmentalists are bound to encounter considerable opposition, not only because their proposals challenge the established power of various sectional interests within the community, but

1 Mosley J.G., 'Evolving Government Policy in Land-Use Conflicts Resolution : The Australian Experience', paper presented at ANZAAS Symposium, Perth, August 1973, *op. cit.*, *passim*.

2 Burton J.R., 'Conservation Issues of the Last Decade', *BHP Journal*, No. 1, 1980, pp. 40-47.

also because their ideas are in ferment and in part ahead of their time, not least in challenging materialistic and utilitarian ethics about land and natural resources. Wilderness is something involving pure and absolute qualities, hence eco-activists are uncompromising in defending this ideal, but such an attitude runs counter to political processes where tradeoffs are the usual practice. Figgis argues that esoteric values are difficult to convey in the public arena, hence conservationists achieve greatest success in situations where they can employ utilitarian arguments and conventional political and administrative procedures to press their claims. Figgis agrees with the earlier authors that overall achievements have been modest, but ever-expanding. The diversity of the Australian conservation movement is both its strength and its weakness but, relative to population, involvement in environmental issues is far greater in this country than in most equivalent western industrial nations³.

8.3 HYPOTHESIS B : ENVIRONMENTAL CONFLICT

8.3.1 Validation of the Hypothesis

Hypothesis (b) relates to the capacity or otherwise of the Australian conservation movement to bring pressure to bear on government so as to achieve reform of resource management practices in accordance with certain desired environmental principles. Comments by Burton, Figgis and Mosley suggest that Australian conservation groups have achieved only limited success in such programmes during the past two decades. The principal reason is that, apart from the countervailing opposition of some bureaucrats and developers, certain constitutional, legal and

3 Figgis P., *The Politics of Wilderness Conservation in Australia: The Movement and the Issue*, honours thesis in Government, University of Sydney, 1979. Research undertaken by the Director of the Australian Heritage Commission (Dr Max Bourke) in 1980, supports the contention about strength of the Australian conservation movement, relative to environmental groups in other nations.

administrative constraints exist, as well as decision processes, which inhibit any interest group from forcing rapid change upon government. This is not a matter of outright obstructionism, but rather of providing the necessary checks and balances to prevent sectional interests from imposing their will upon the majority of society.

These powerful impediments have negative aspects which eco-activists believe infringe democratic processes, nonetheless the reality is that if conservation groups aspire to achieve change, they must pursue it through legitimate social, political and administrative means, using the traditional measures of bargaining, compromise and persuasion or influencing the weight of public opinion. In short, it would appear that hypothesis (b) is correct and environmentalists may have been unrealistic about the degree of reform feasible in resource management practices within given time spans. However, it is still desirable to detail some of the evidence and to record some comments on environmental conflict.

8.3.2 Aspects of Environmental Conflict

In considering whether there is any general theory of environmental conflict, the material presented in Chapter 3 indicates that a number of proxy models have been used to attempt to explain the interaction between voluntary conservation groups and their opponents within the political arena. No author appears to claim the development of a comprehensive theory of environmental conflict; rather case-study situations have been analysed through the medium of historical-descriptive presentation, interest group theories, public participation concepts and policy process techniques. While this has resulted in some useful insights, no integrated theory has yet emerged. One fundamental conclusion, however, is that environmental conflict is distinctively shaped by the social and political culture, hence eco-activists seeking to amend statutes, policies and practices, must conform to prevailing modes of operation within the community if they are to achieve recognition and acceptance.

Turning more directly to the Australian jurisdiction, it is apparent that most conservation conflicts of a non-urban form have originated from the desire of public and private development interests to exploit natural resources in areas judged by conservationists to possess scenic amenity or wilderness qualities. In most instances these sites are remote from population centres, in areas seldom visited by politicians or the public, but possessing qualities capable of depiction to distant audiences. The fact that these sites are surrounded by large tracts of uninhabited country does not negate the prospect of conservation; prime scenic features are a scarce commodity in any nation, not least in Australia.

Once the issue of conservation versus development has been brought into the political arena by catalytic individuals or groups, an escalation of conflict usually occurs, with governments attempting to defuse the situation or achieve conflict resolution through traditional institutional means, such as project evaluation procedures, public inquiries, or environmental impact statements. It is claimed that an identifiable issue-attention cycle exists, that conflict can escalate to unreason so that detente becomes virtually impossible, and that environmentalists are always torn between adherence to principles and the need for pragmatic compromise if political victories are to be achieved. Bureaucrats and politicians recognise this incipient weakness and sometimes engage in delaying tactics, divisive argument, token appeasement or incorporation into advisory networks, in an effort to weaken the influence exerted by voluntary conservation groups.

It is further argued in Chapter 3 that a number of preconditions must be met if environmentalists are to have any prospect of enforcing reform of resource management practices. Key factors include advance intelligence of development proposals, dialogue with the administration,

rational argument and identifiable expertise, as well as good relationships with legislators and the mass media. Even if these factors apply, a number of countervailing advantages accrue to the Crown, if the government wishes to resist the pressure of conservationists. Apart from the legitimate power of the bureaucracy and the wide discretionary powers available to ministers and officials, there is a long tradition of secrecy within Australian government and a general lack of provision of environmental rights for citizens. These apparent advantages are not totally immutable, since justice must be seen to be done, delays can prove costly for developers, and incorrect information may be castigated to discredit government. The conservationists are not the only group applying leverage, however, since business interests often enjoy advantageous relationships with politicians and particular public agencies which can be used to thwart the aspirations of eco-activists.

8.3.3. Some Australian Case-Studies

Chapters 4 to 7 inclusive are devoted to case-studies, analysing four major conservation controversies, each highlighting particular aspects of environmental conflict and indicating the reasons why reform of resource management practices is difficult to achieve. It is argued at the outset that voluntary conservation groups tend to adopt four basic strategies in their struggle to preserve Australia's vanishing wilderness:

- (i) they seek to have narrowly specialised forms of project evaluation methodology replaced by multi-objective planning, encompassing social and ecological variables as well as technical and economic considerations;
- (ii) they lobby and exert influence in a variety of ways for the modification or revocation of existing policies and legislation governing resource utilisation and conservation measures;

- (iii) steps are taken to try to strengthen environmental controls and expand amenity rights in law; and
- (iv) intergovernmental relations are employed as a means of providing checks and balances on particular interests and practices.

Chapter 4 presents a longitudinal analysis of Tasmanian energy policy over two decades. Although a number of weaknesses in project evaluation methodology were identified by conservationists, the eco-activists were never able to effectively project these technical deficiencies to a largely unknowledgeable public; while within the political arena their expertise never gained the acceptance accorded to that of technocrats within the bureaucratic system. The latter not only enjoyed far easier access to key political decision-makers, but were reinforced by a succession of State Premiers committed to the notion of hydro-industrialisation as an economic development strategy. When conservationists attempted to point out deficiencies in the energy-intensive industrialisation concept, they were accused of disloyalty to Tasmania. The conservationists also found it difficult to challenge the proposals of the Hydro-Electric Commission of Tasmania, because no provision existed to enforce the disclosure of cost-benefit calculations or energy pricing agreements. Only through the mechanism of a Commonwealth Committee of Inquiry were some of the options disclosed and when federal financial assistance was offered to save Lake Pedder, the intransigence of the State Premier resulted in the rejection of compensation. In the more recent Franklin-Lower Gordon Rivers energy debate, conscious attempts have been made to examine alternatives, but it will be political considerations rather than economic rationality which will ultimately determine the outcome.

The lesson for the conservationists in the Tasmanian energy debate is that expertise alone may not convince parliamentarians. When opposing technical analyses are proffered to political decision-makers, the tendency is to accept the recommendations of technocrats within their own bureaucratic system, or information which appears to accord with their own value preferences. The most the eco-activists can achieve is to throw doubts on official project estimates and bring influence to bear through the media for retention of areas of high visual amenity. In other words, the environmentalists must find viable alternative layouts, rather than rely upon a purely defensive posture for particular localities. The principal objective would appear to be identification of a politically acceptable package involving some tradeoff between conservation and development, at a price only marginally greater than the initial proposal. This need not mean the sacrifice of environmental principles, but it does involve an active search for alternatives. Notwithstanding the difficulty of persuading governments, persistence and pressure may yield results. The long struggle for South-West Tasmania has resulted in half of the region being incorporated in national parks of world heritage quality and the remaining wilderness is now subject to environmental controls.

In Chapter 5 of the thesis, the complexities and uncertainties of forestry policy were examined in some detail. It is apparent that there are many shortcomings in current forestry practices, occasioned not so much by malice or carelessness as by a lack of scientific knowledge of forestry ecosystems and professional value orientations which regard all trees as potential sawlogs or pulpwood. Following the critical examination of Australian forestry management by the Routleys in 1974, and the visual impact of clearfelling upon an alarmed public, the environmentalists were in a strong position to influence community attitudes and achieve major

reforms in forestry practices. Yet the lobbying and media campaigns achieved little success. What were the reasons for the lack of success? From the evidence in Chapter 5, three conclusions may be drawn:

- (i) the close relationship between public forestry authorities and private timber corporations resulted in conservationists experiencing considerable difficulty in penetrating the influence systems in order to express their case forcibly at political levels;
- (ii) the ad-hoc and piecemeal nature of the conservation campaign failed to mobilise sufficient public opinion to bring pressure to bear on political representatives; and
- (iii) blanket opposition to existing forestry practices lacked credibility; positive and specific recommendations were needed.

The implications are clear: environmentalism will only succeed when carefully selected targets are chosen, and when sustained, well-orchestrated campaigns are conducted.

In Chapter 6 of the thesis various aspects of environmental law were considered; in particular attempts to regulate the manner in which minerals exploration activities and mining ventures are carried out. It was argued that Australian environmentalists rather naively hoped to emulate the success of their American counterparts, in using the courts as a constraint upon resource exploitation. This experiment was not only doomed to failure by the different constitutional provisions and legal systems in the two countries, but also by the tendency of Australian conservationists to drift into progressively higher levels of litigation without careful selection of legal tactics or case situation. Although the Australian legal system initially appears to offer a wide array of judicial measures, there are two powerful obstacles to overcome:

- (i) it is almost impossible to gain locus standii unless pecuniary interest is involved; and
- (ii) the high cost of litigation is sufficient to deter all but the most determined plaintiffs.

Although attempts are now being made to overcome this impasse by reform of the legal system, major innovations are unlikely in the foreseeable future. This does not mean that conservationists will abandon the courts, but rather may use them only as a last resort or to attempt to achieve decisive breakthroughs in locus standii. In general, the environmental groups lack knowledge of the law and may place their organisations at financial risk if they resort to the courts. Undoubtedly a learning experience is occurring, but the principal value of litigation at present is the publicity it creates and the time it buys to lobby in other ways. In the Precipitous Bluff case, protracted litigation did persuade the Tasmanian Government that the disputed region should be incorporated into a national park. Reform of the mining regulations is in progress, but has not yet been achieved.

The Fraser Island case, described in Chapter 7, is an illustration of the manner in which a charismatic individual, who publicises his case well, can bring national attention to bear upon a conservation issue. As in the Lake Pedder case, it was the establishment of a federal Committee of Inquiry which really opened the way for a careful examination of options, but in the end political reasons rather than ecological factors or economic logic determined the outcome. It would appear that the conservationists adopted a regional perspective initially and only gradually came to recognise that intergovernmental relations might provide the leverage needed to achieve a victory.

Any call for federal intervention in local affairs is bound to offend some sections of a community, hence eco-activists must carefully weigh the advantages and disadvantages of external participation in an issue. Once external forces are involved, the course of events becomes rather unpredictable, though a larger public becomes embroiled with resultant media publicity. The Commonwealth is usually reluctant to intervene in State affairs, but will do so when political advantage accrues. The Fraser Island case must be regarded as an intimation to conservationists that they should more thoroughly examine Commonwealth powers, with a view to selective utilisation when circumstances permit. Inter-governmental relations is not a one-sided affair, hence circumstances could be envisaged where State-Commonwealth, State-State, or State - local tensions could be exploited to advantage. The key problem for the eco-activists is to convince the parties concerned that there are political gains in being linked with the case.

8.3.4 Summary

All the foregoing material supports the contention that reform of resource management practices is not easily achieved. The conservationists have attempted to use a variety of tactics, but in each case the organs of government or decision processes create some barriers. Lest this appear to be a counsel of despair, it is as well to reflect that the environmentalists have secured a number of areas into national parks during the past decade, forest management practices have been amended in some degree as a result of lobbying, and environmental safeguards such as impact statements and mining guidelines are now receiving more careful attention. These are positive achievements of lasting benefit.

8.4 TOWARDS A THEORY OF AUSTRALIAN ENVIRONMENTALISM

There are very few texts about environmentalism and even fewer about Australian environmentalism. This thesis may therefore be regarded as a conscious attempt at innovation, bringing together material about environmental beliefs and attitudes, with a study of some characteristics of the Australian conservation movement. The discussion and interpretation are generally exploratory, but enough has been recorded to gain some impression of the values of Australian conservationists, their organisation and aspirations, as well as the tactics adopted in confrontation with development interests and government.

Two initial hypotheses have been examined and on the basis of evidence presented, judged to be validated. It has been demonstrated that the structure and activities of the Australian conservation movement are more complex than the literature suggests, and that eco-activists face a number of institutional barriers in attempting to reform Australian natural resource management practices.

The current study differs from previous Australian literature on conservation controversies in that attention is focussed on individuals and groups seeking change, rather than on any specific decision to amend existing practice. Case-studies have been utilised, not so much to consider outcomes as to investigate the manner in which outcomes are determined. Apart from consideration of how environmental issues become articulated and debated within society, attention has been focussed on access to government, means of achieving political influence, interest group politics, problems of voluntary organisations and aspects of conflict resolution. Overall this does not constitute a comprehensive theory of Australian environmentalism or its political manifestation as environmental conflict, but some elements of such a theory have been identified along the way. More significantly, problems of achieving reform in resource management practices have been comprehensively

investigated. The first tentative framework on which to build is there, whether we aspire to construct a sequential exposition of environmental conflict, or establish an analytical model of Australian environmentalism.

In opening up such topics to empirical investigation, three research needs have been identified within the thesis:

- (a) We need to know much more about the Australian conservation movement and its activities, than is currently recorded. A twofold programme of investigation is required, involving surveys of the membership of different conservation groups, to discover variations and shared features of attitudes and values. A more comprehensive evaluation is also required in each State or Territory to identify the number of environmental groups, their stance and operational styles, as well as the scale and sources of finance or other resources;
- (b) A number of case-studies of Australian environmental conflict have now been published, but they have not been evaluated using any consistent methodology. It would be fruitful to attempt a comparative analysis to discover aspects of environmentalism, or to consider forms of interaction amongst protagonists in conservation conflict. Overseas studies may not be directly comparable, but it would be of interest to discover what factors appear distinctively Australian and different from other countries of the world; and
- (c) There is an urgent need for more intensive investigation of the means of public participation, conflict resolution mechanisms and environmental detente. Disharmony caused by environmental conflict may have long-term social costs; we should not await the onset of disagreement before attempting to resolve it. The

prevalence of conservation controversies is an indication that current procedures for decision-making in government are deficient in some respects. We need to discover ways of improving the situation.

As pointed out in Chapter 1, there are a number of justifications, both social and economic, for pursuing the above objectives. Australians are becoming more concerned and sensitive about their natural heritage, Australian environmentalism is an important indicator of that trend.

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